insights

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Roadless Rule Revocation: Lost in the Wilderness?

Murray Feldman and Amelia Yowell

In a June 23, 2025, press release, the U.S. Department of Agriculture, which oversees the Forest Service and 193 million acres of national forest lands, trumpeted: "Secretary Rollins Rescinds Roadless Rule, Eliminating Impediment to Responsible Forest Management." Well, not exactly. As the Forest Service's "Roadless Areas" webpage admits, what happened was that the secretary "announced the intent to rescind the 2001 Roadless Rule." That rescission has yet to occur, although on August 29, 2025, the Forest Service kicked off the process with a notice of intent to prepare an environmental impact statement and rulemaking to rescind the 2001 Roadless Rule. Special Areas; Roadless Area Conservation, National Forest System Lands, 90 Fed. Reg. 42,179 (Aug. 29, 2025). The proposed rescission has already drawn strong reactions from both conservation and commodity production stakeholders and others. *E.g.*, Robert Bonnie, *We Can Do Something About Stressed-Out Forests*, N.Y. Times, Aug. 31, 2025; Bobby Magill, *Trump Wants to Cut Down Untouched Forests. It Won't Be Easy*, BL Env't & Energy (Aug. 14, 2025).

We ask here: Would rescinding the Roadless Rule, as the USDA's original press release suggested, actually remove the legal, policy, and budget obstacles to "road construction, reconstruction, and timber harvest on" the 44.7 million acres of National Forest System lands that the Forest Service now indicates might be subject to the changed Rule? And, from a policy perspective, has the agency identified the correct tool to achieve its goals? We don't think it's that simple.

First, some background. The "Roadless Rule" does not appear in a tidy section of the Code of Federal Regulations, and is instead a collection of *Federal Register* notices, agency guidance, appellate court decisions, and competing regulatory frameworks (the National Roadless Rule and two superseding state-specific rules). This tortuous path is recounted in court decisions and the Forest Service's Roadless Areas website. *See, e.g.*, *Wyoming v. USDA*, 661 F.3d 1209, 1221–26 (10th Cir. 2011); *Los Padres Forest Watch v. U.S. Forest Serv.*, 25 F.4th 649, 655 n.7 (9th Cir. 2022).

The Forest Service promulgated the Roadless Area Conservation Rule (Roadless Rule) at the end of the Clinton administration. Special Areas; Roadless Area Conservation, 66 Fed. Reg. 3244 (Jan. 12, 2001). The Rule originally applied to 58.5 million acres of Inventoried Roadless Areas—approximately one-third of national forest system lands. *Id.* at 3245.

The concept of "Inventoried Roadless Areas" traces to the 1964 Wilderness Act that established the National Wilderness Preservation System of federal lands designated as "wilderness areas." 16 U.S.C. § 1131. "Wilderness" is "an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions." *Id.* § 1131(c). A "wilderness area" generally "has at least five thousand acres . . . or is of sufficient size as to make practicable its preservation and use in an unimpaired condition." *Id.*

Congress directed the Forest Service to review areas the agency had previously classified as "primitive," determine if any of those areas were suitable for wilderness preservation, and report back within 10 years with recommendations on future wilderness designations from these areas. *Id.* § 1132(b). The Forest Service completed its Roadless Area Review and Evaluation (RARE I) as directed but "abandoned" the effort after a successful National Environmental Policy Act (NEPA) challenge. *Wyoming*, 661 F.3d at 1221 (citing *Wyo. Outdoor Coordinating Council v. Butz*, 484 F.2d 1244 (10th Cir. 1973)). The Forest Service's RARE II process also was set aside in a NEPA challenge. *California v. Block*, 690 F.2d 753, 758 (9th Cir. 1982).

These past inventory efforts informed the "Inventoried Roadless Areas" addressed in the 2001 Roadless Rule. *Wyoming*, 661 F.3d at 1221, 1225. That Rule prohibited road construction and reconstruction in these areas, and generally prohibited the cutting, sale, or removal of timber from those areas, with limited exceptions. 66 Fed. Reg. at 3272–73.

A flurry of lawsuits challenged the Rule, resulting in

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conflicting rulings and nationwide injunctions. And, in 2005, the George W. Bush administration promulgated a rule substituting a state petition process for blanket, nationwide prohibitions. When the dust settled, the original Clinton-era rule was upheld; the George W. Bush–administration rule was enjoined; and the Forest Service began implementing the National Roadless Rule in 2012. *See Wyoming*, 661 F.3d at 1272 (upholding 2001 Roadless Rule); *Cal. ex rel. Lockyer v. USDA*, 575 F.3d 999, 1021 (9th Cir. 2009) (affirming permanent injunction of State Petitions Rule); Letter from U.S. Forest Serv. Chief Thomas L. Tidwell to Reg'l Foresters (May 31, 2012) (directing agency implementation of 2001 Rule).

Also by 2012, the Forest Service had promulgated two state-specific Roadless Rules for roadless areas in Idaho and Colorado, covering 9 million acres and 4.2 million acres respectively. The Forest Service has indicated that it is not revoking those state-specific rules. 90 Fed. Reg. at 42,179–80; James Dawson, *USDA Roadless Rule Rollback Will Not Affect Idaho*, Boise State Pub. Radio News (June 25, 2025).

Since 2012, the debate over the Roadless Rule had largely lain dormant. This is likely the result of the various court decisions putting the issues to rest. But it also may be attributable to significant changes to the national forest planning regulations under the 1976 National Forest Management Act (NFMA). This regulatory framework will likely be a complicating factor for the administration's current proposal.

Under NFMA, the Forest Service develops land and resource management plans for each unit of the National Forest System. These plans provide management direction for the relevant forests, and they are designed for coordinated use and sustained yield of all national forest resources. Importantly, all specific projects authorized in a particular national forest unit—from timber sales to campground developments to mining projects—must be consistent with the applicable plan or plan amendments. 16 U.S.C. § 1604(a)–(i).

The 2012 NFMA regulations require the Forest Service to include in each forest plan standards and guidelines necessary to maintain or restore "the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area." The agency also must consider the "[i]nterdependence of terrestrial and aquatic ecosystems," "[c]onditions in the broader landscape that may influence the sustainability of resources and ecosystems," and other factors such as wildland fire, invasive species, climate change, and the ability of terrestrial and aquatic ecosystems in the plan area to adapt to change. 36 C.F.R. § 219.8(a). At the time those regulations were promulgated, then–Agriculture Secretary Thomas Vilsack stated, "It is time for a change in the way we view and manage America's forestlands with an eye towards the future" that integrates "forest restoration, climate resilience, watershed protections, wildlife conservation, opportunities to contribute to vibrant local economies, and the collaboration necessary to manage our national forests." National Forest System Land Management Planning, 77 Fed. Reg. 21,162, 21,163–64 (Apr. 9, 2012). Those revised 2012 NFMA planning regulations reflected an accretion "of societal, political, legal, and ecological forces" since the adoption of the original NFMA regulations in 1982 to emphasize ecosystem protection values over commodity production targets. Murray Feldman & Hadassah Reimer, *Ecological Succession of National Forest Planning Regulations*, Nat. Res. & Env't, Winter 2019, at 8, 11.

In its recent notice, the Forest Service observes that the Roadless Rule superseded individual forest plans for various roadless area resources, like timber, minerals, or other commodities. 90 Fed. Reg. at 42,180. And it suggests that without the constraint of the Roadless Rule, local forest managers can be "flexib[le]" and "take swift and immediate action." *Id.* at 42,181. But while the Roadless Rule rescission may be one step in that direction, it is likely not the immediate unleashing of resource development opportunities that the administration claims to envision.

A key component for successful regulatory reform includes "a causal theory of the manner in which its objectives are to be attained." Daniel A. Mazmanian & Paul A. Sabatier, *Implementation and Public Policy* 25–26 (1983). "An adequate causal theory requires (a) that the principal causal linkages between governmental intervention and the attainment of program objectives be understood; and (b) that the officials responsible for implementing the program have jurisdiction over sufficient number of the critical linkages to actually attain the objectives." *Id*. Indeed, "inadequate causal theories lie behind many of the cases of [public policy] implementation failure." *Id*.

The NFMA statutory and regulatory provisions—applicable to all national forest management activities in roadless areas and otherwise—preclude the ability to immediately begin timber harvest or other resource developments on national forests, even if the Roadless Rule is rescinded, because of other substantive and planning requirements. For instance, under NFMA and its regulations, the suitability of any national forest unit area for resource commodity production—especially timber production—must be established and considered before the Forest Service can approve a specific project. 16 U.S.C. § 1604(g)(2)(A), (i); 36 C.F.R. §§ 219.7(e)(v), 219.11(a), 219.15.

Next, any approved project activities must be consistent with the substantive standards for soil, water quality, sustainability, ecological integrity, and species diversity outlined in those plans. *See* 36 C.F.R. §§ 219.8–.11. In other words, the Forest Service must evaluate any new resource development project under the general NFMA plan framework. If the agency fails to appropriately consider the planning standards, the approved project could be vulnerable to a legal challenge. *See, e.g.*, *Sierra Club v. U.S. Forest Serv.*, 897 F.3d 582, 602 (4th Cir. 2018) (overturning a pipeline right-of-way grant where the agency did not determine if the substantive forest plan requirements would be satisfied if the approved activity proceeded). The ecosystem services approach embodied in those still-applicable 2012 NFMA planning rules and framework emphasizes the protection of healthy ecosystems while also providing for resource commodity production to the extent consistent with the overriding sustainability and ecosystem function constraints.

From the recent notice, it does not appear that the Forest Service's current Roadless Rule rescission plan fully appreciates this framework or other parts of the modern complexity of

national forest management with its layers of overlapping management regimes, designations, and statutory requirements. *See U.S. Forest Serv. v. Cowpasture River Pres. Ass'n*, 590 U.S. 604, 609 (2020) (recognizing the "interaction of multiple federal laws" in holding that a Mineral Leasing Act right-of-way across the Appalachian Trail might be granted by the Forest Service because the Trail was not a national park unit pursuant to the National Trails System Act). For instance, the Forest Service notes that resource development decisions in formerly roadless areas would be "left to the local officials through site-specific analysis . . . consistent with applicable plan provisions." 90 Fed. Reg. at 42,182. But it then does not grapple with the fact that those land management plans themselves may pose larger obstacles to the "swift and immediate action" it asserts is needed. *Id.* at 42,181. As Justice Thomas observed, "[s]ometimes a complicated regulatory scheme may cause us to miss the forest for the trees." *Cowpasture*, 590 U.S. at 616. By focusing on the trees—here, roadless areas—the administration may have misidentified key roadblocks to the resource development problem it is trying to address.

Of course, the agency first must actually rescind the Rule, and its notice to prepare an environmental impact statement is just the first step of many in that process. In the end, when an agency seeks to rescind a prior policy, it must provide a record-supported basis that satisfies the "reasoned analysis" standard. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). While the agency need not conclusively demonstrate that the reasons for the new policy are better than the reasons for the old, it must show that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better. *FCC v. Fox TV Stations, Inc.*, 556 U.S. 502, 515 (2009). The agency must provide even more detailed justification when its new policy rests upon factual findings that contradict those that underlay its prior policy, or when its prior policy has engendered serious reliance interests that must be taken into account. *Id.* at 516. Likewise, "when an agency rescinds a prior policy its reasoned analysis must consider the alternatives that are within the ambit of the existing policy." *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020) (cleaned up) (applying *State Farm* and *Fox*). This is true even after the Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). While the Court may be the ultimate interpreter of statutes after *Loper Bright*, agencies still must adhere to the Administrative Procedure Act's process for rescinding rules and changing policies. *See, e.g.*, *id.* at 404–05.

When offering its rationale for the proposed Roadless Rule revocation, the Forest Service will have to contend with the record, scientific, and land management analyses that supported the 2001 Rule, which was ultimately upheld by two circuit courts. Given this background, it may be difficult for the agency to justify and document the reversal of the long-standing Rule under the *State Farm/Regents* standards. Although the administration may have valid policy reasons behind its goal of increased timber sales, including an asserted need to control fires and address the accumulation of fire-prone conditions in some forest areas, 90 Fed. Reg. at 42,181, those and similar interests may not be enough to support the proposed revocation.

In the end, any recission of the Roadless Rule may not survive the inevitable litigation it will trigger. And if it does survive, unless the overarching NFMA forest planning framework is overhauled, there will likely be fewer practical on-the-ground changes than either the administration or concerned stakeholders initially indicated. *E.g.*, Lisa Friedman, *Trump Administration to End Protections for 58 Million Acres of National Forests*, N.Y. Times, June 23, 2025. The Forest Service's forthcoming rulemaking process likely may flesh out these issues and provide more support for its policy initiative. But from where we stand today, the substantial practical effects from the Rule's revocation may be lost in the wilderness of public lands management and national forest planning.

Murray Feldman is a partner in the Boise, Idaho, office, and Amelia Yowell is of counsel in the Washington, D.C., office, of Holland & Hart, LLP. They may be reached at mfeldman@hollandhart.com and agyowell@hollandhart.com, respectively.