

**ON BEHALF OF THE ATTORNEYS GENERAL OF NEW MEXICO, CALIFORNIA,
COLORADO, MINNESOTA, OREGON, WASHINGTON, AND WISCONSIN**

September 23, 2026

By Electronic Submission to www.regulations.gov

Director, Public Benefits
201 14th Street SW, Public Benefits Office
Washington, DC 20250

Re: Comments on the United States Department of Agriculture, Forest Service Notice of Intent to Prepare an Environmental Impact Statement to Revise the Travel Management Regulations, 91 Fed. Reg. 54686 (Aug. 24, 2026) (Docket FS-2026-0100).

On behalf of the Attorneys General of the undersigned States of New Mexico, California, Colorado, Oregon, Minnesota, Washington, and Wisconsin (“the States”), please accept the below comments in response to the United States Department of Agriculture (USDA), Forest Service (USFS) Notice of Intent to prepare an Environmental Impact Statement for its proposed revisions to the Travel Management Regulations, 91 Fed. Reg. 54686 (Aug. 24, 2026). The USFS provided a thirty-day comment period, with comments due on September 23, 2026.

The USFS’s existing Travel Management Rule, 36 C.F.R. pt. 212 (TMR) provides a clear and consistent framework for local land managers to determine which roads, trails, and other areas are open to motor vehicles in the almost 200 million acres of the National Forest System. This practical and essential regulation provides basic guardrails to ensure that the USFS considers and minimizes the impacts of motor vehicle use on natural resources and other shared uses of the land, including non-motorized forms of recreation, prior to opening areas to motorized vehicle use. Public participation is a key part of this planning process. The framework created by the TMR has resulted in a system of clearly mapped roads, trails, and other areas that provide reasonable motorized access, while also protecting natural resources, recreation, and other uses. Under this framework, the Public are still able to enjoy robust access to public lands balanced against other important values that the USFS provides.

The USFS’s proposed revisions to the TMR would eliminate these protections, instead establishing an “open-unless-closed” presumption across the entirety of the National Forest System. The proposed revisions would also rescind the requirement that USFS officials minimize impacts on natural resources and other users of the land and weaken other guardrails such as public engagement provisions. This would likely lead to confusion and increased, unmanaged motor vehicle use in the National Forest System that would have adverse effects on our air and water, disturb wildlife and threaten their habitat, and increase USFS’s road and trail maintenance and enforcement costs. Additionally, it could discourage the use of our National Forests by individuals seeking to enjoy non-motorized recreation or who depend on pristine habitats, such as hikers,

backpackers, cyclists, climbers, anglers, and hunters. The outdoor recreation industry accounts for \$696.7 billion of current-dollar gross domestic product: the States are concerned that the proposed revisions would negatively affect this industry.

Further exacerbating these impacts, the proposed TMR revisions come only days after the USFS proposed to rescind the Roadless Rule, 91 Fed. Reg. 53827 (Aug. 20, 2026), a related, critical safeguard that prohibits (with limited exceptions) construction of roads and timber harvesting in Inventoried Roadless Areas in the National Forest System. 36 C.F.R. pt. 294. Eliminating these two protections together will even more significantly harm natural resources and National Forest health, decrease public safety, and increase conflict among different users of the National Forest System. The States urge the USFS to retain the current framework.

The States are concerned that the USFS has not fully considered the USFS's existing planning framework that would be implicated by this rulemaking, or the adverse environmental, social, and economic consequences of its proposed revisions. To the extent that the USFS moves forward, it must articulate a reasonable purpose and need, and consider multiple alternatives that explain the impacts of its proposed revisions.

I. Management of National Forests and the National Forest Management Act

The USFS, an agency within the USDA, manages its land under a multiple-use framework described in the Multiple Use Sustained Yield Act (MUSYA) of 1960, which provides that National Forests “shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes.”¹ The MUSYA does not identify a hierarchy of these uses, nor does it distinguish among different types of outdoor recreation or describe the circumstances in which different types of outdoor recreation are appropriate.

In 1976, Congress enacted the National Forest Management Act (NFMA), which governs the administration of National Forests and sets out basic planning principles.² Under NFMA, the USFS engages in two administrative levels of management planning: unit-level and project-level.

At the first (unit) level, NFMA requires the USFS to “develop, maintain, and, as appropriate, revise land and resource management plans” for each unit of the National Forest System, which are commonly referred to as “Forest Plans.”³ Forest Plans establish an overarching “framework for integrated resource management and for guiding project and activity decisionmaking on a national forest, grassland, prairie, or other administrative unit,”⁴ and, consistent with MUSYA, must provide for coordination of uses related to “outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness.”⁵ Forest plans divide a forest unit into different “management areas” that are subject to different standards and guidelines. Forest Plans

¹ 16 U.S.C. § 528; *see also id.* at § 531 (defining “multiple use”).

² *Id.* § 1600 *et seq.*

³ *Id.* § 1604(a).

⁴ 36 C.F.R. § 219.2(b)(1).

⁵ 16 U.S.C. § 1604(e)(1).

may be amended at any time, in accordance with NFMA procedures, NEPA compliance, and public participation requirements.⁶

At the second (project) level of the management framework, any site-specific projects that the USFS undertakes within a National Forest or other administrative unit must be consistent with the governing Forest Plan and management area prescriptions (as well as other applicable statutes such as NEPA and the Endangered Species Act (ESA)).⁷ While the USFS may be constrained from taking particular actions because of a Forest Plan, Forest Plans themselves do not authorize any specific on-the-ground actions or projects.⁸ This two-level arrangement “allows the broad guidelines of the Forest Plan to be tailored to fit the specific ecological aspects of any proposed forest activity.”⁹

II. Motorized Vehicles and the 2005 Travel Management Rule

Motorized vehicles have presented a long-standing challenge for federal land management agencies. Off-road vehicles (ORVs) and other motorized vehicles on public lands can have effects “rang[ing] from soil compaction and erosion to noise, air, and water pollution. . . . ORVs directly and indirectly damage vegetation and wildlife, fragment habitat, displace sensitive species, introduce and distribute invasive species, and provide extensive access to legal hunting and illegal poaching of wildlife.”¹⁰ Motorized vehicles can conflict with other recreational uses of the land and degrade the experience of other non-motorized recreators.¹¹ As motorized recreational vehicle use and the capabilities of these vehicles increased in the late 1900s, so did controversy over their use and their ecosystem and recreational impacts.¹²

In 1972, President Nixon issued an executive order stating that the widespread use of motorized recreational vehicles is in “frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity.”¹³ The order directed agencies, including the USDA and the United States Department of the Interior (DOI), “to provide for administrative designation of the specific areas and trails on public lands on which the use of

⁶ *Id.* § 1604(f)(4); 36 C.F.R. § 219.13.

⁷ 36 C.F.R. § 219.2(b)(2); *Idaho Sporting Cong., Inc. v. Rittenhouse*, 305 F.3d 957, 962 (9th Cir. 2002) (“[A]ll management activities undertaken by the Forest Service must comply with the forest plan, which in turn must comply with the Forest Act...”). A “project” is defined as “an organized effort to achieve an outcome on NFS lands identified by location, tasks, outputs, effects, times, and responsibilities for execution.” 36 C.F.R. § 219.19.

⁸ *See* 36 C.F.R. § 219.2(b)(2).

⁹ Michael J. Gippert & Vincent L. DeWitte, *The Nature of Land and Resource Management Planning Under the National Forest Management Act*, 3 ENV'T L. 149, 157 (1996).

¹⁰ John C. Adams & Stephen F. McCool, *Finite Recreation Opportunities: The Forest Service, the Bureau of Land Management, and Off-Road Vehicle Management*, 49 NAT. RES. J. 45, 49 (2009) (quoting DAVE HAVLICK, NO PLACE DISTANT: ROADS AND MOTORIZED RECREATION ON AMERICA'S PUBLIC LANDS 91 (2002)).

¹¹ *See* Adams & McCool, *supra* note 10, at 52; *see also, e.g., Oregon Nat. Desert Ass'n v. BLM*, 625 F.3d 1092, 1123 (9th Cir. 2008) (“In addition to the physical impact of motorized vehicles on natural features of land, such vehicles transform remote areas into motorized recreation zones, substantially altering the outdoor recreation experiences of ORV users and non-users alike.”).

¹² *See* Adams & McCool, *supra* note 10, at 73–86.

¹³ Exec. Order No. 11644, 37 Fed. Reg. 2877 (Feb. 8, 1972).

off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted.”¹⁴ It also established a minimization standard, requiring the designations to minimize damage to natural resources such as soil, watershed, and vegetation and to minimize conflicts with other recreational uses.¹⁵ Additionally, it stated that areas and trails shall not be designated in Wilderness Areas or Primitive Areas and limited designation in areas of the National Park System, Natural Areas, or National Wildlife Refuges and Game Ranges.¹⁶

In 1977, President Carter issued a second executive order clarifying the first and requiring agencies to immediately close areas or trails to off-road vehicles if they “determine[] that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands” until those adverse effects have been eliminated or measures have been implemented to prevent recurrence.¹⁷ However, even through the 1980s, “many administrative units appear to have permitted ORVs virtually everywhere” and relied on a “default ‘open’ policy.”¹⁸

The USFS promulgated the TMR as it exists today in 2005 to implement the above executive orders in the context of the “growing popularity and capabilities” of ORVs.¹⁹ By the end of the twentieth century, “the conflict over ORV use on public lands rivaled that over logging and the Clinton administration’s roadless initiative” and “both motorized and non-motorized recreationists had begun to demand that the agencies use the appropriate planning processes.”²⁰ The USFS recognized this controversy and that the regulations in existence at the time were not “sufficient to control proliferation of routes or environmental damage,” particularly because of the environmental impacts of repeated vehicle travel over the same route.²¹ And it described how “[s]oil erosion, water quality, and wildlife habitat” as well as the “ability to enjoy quiet recreational experiences,” are all impacted by the “magnitude and intensity” of motor vehicle use on federal lands.²² Thus, the goal of the TMR is “to ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.”²³ Emphasizing the importance of both consistency and local decision-making, the TMR was designed to create a “national framework under which designations are made at the local level.”²⁴

¹⁴ *Id.*

¹⁵ *Id.* at 2877–78.

¹⁶ *Id.* at 2878.

¹⁷ Exec. Order 11989, 42 Fed. Reg. 26959 (May 25, 1977).

¹⁸ Adams & McCool, *supra* note 10, at 79–80.

¹⁹ Travel Management; Designated Routes and Areas for Motor Vehicle Use, 70 Fed. Reg. 68264, 68264–65. (Nov. 9, 2005).

²⁰ Adams & McCool, *supra* note 10, at 84.

²¹ 70 Fed. Reg. 68265.

²² *Id.*

²³ *Id.* at 68264.

²⁴ *Id.* at 68265.

Subpart A of the TMR requires USFS officials in each National Forest, Grassland, or any other unit of the National Forest System to establish “the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.”²⁵ Subpart B requires USFS officials in National Forest System administrative units or Ranger Districts to designate the National Forest System roads, trails, and areas for motorized vehicle use by vehicle class and, if appropriate, the time of year.²⁶ Certain vehicles and uses are exempt from these designations including limited administrative use by USFS and “[u]se of any fire, military, emergency, or law enforcement vehicle for emergency purposes.”²⁷ Subpart C provides for designation of over-snow vehicle use routes and time of year.²⁸

In making any of these designations in Subpart B (and Subpart C with a limited exception), “the responsible official shall consider effects on National Forest System natural and cultural resources, public safety, provision of recreational opportunities, access needs, conflicts among uses of National Forest System lands, the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration.”²⁹ Additionally, and crucially, when designating “National Forest System trails and areas on National Forest System lands,” officials are also required to specifically consider impacts to forest resources such as soil, watershed and vegetation; wildlife and wildlife habitats; recreational uses; and conflicts between different classes of motor vehicle uses; and consider these impacts “*with the objective of minimizing*” them.³⁰ Roads, trails, and areas that are ultimately designated for motor vehicle use are identified on motor vehicle use maps (“MVUMs”) that are publicly accessible.³¹

In making the above designations, USFS officials must facilitate public participation pursuant to NEPA³² and must “coordinate with appropriate Federal, State, county, and other local governmental entities and tribal governments.”³³

The USFS currently manages over 371,000 miles of roads, more than 265,000 miles of which are open to motorized vehicles.³⁴ It also manages trails and other areas that may or may not be open to motorized travel. Pursuant to the TMR, these designation decisions are made on the local National Forest level based on the TMR’s criteria, as well as a NEPA analysis, the applicable

²⁵ 36 C.F.R. § 212.5(b)(1).

²⁶ *Id.* § 212.51.

²⁷ *Id.*

²⁸ *Id.* § 212.81.

²⁹ *Id.* § 212.55(a).

³⁰ *Id.* § 212.55(b)(1)–(4) (emphasis added); *see also Idaho Conservation League v. Guzman*, 766 F. Supp. 2d 1056, 1062 (D. Idaho 2011).

³¹ 36 C.F.R. § 212.56.

³² *Id.* § 212.52(a).

³³ *Id.* § 212.53.

³⁴ *Roads*, U.S. FOREST SERV., <https://www.fs.usda.gov/science-technology/infrastructure/roads> [<https://perma.cc/TX3R-SAA8>] (last visited Sept. 18, 2026); *Travel Management*, U.S. FOREST SERV., <https://www.fs.usda.gov/science-technology/travel-management> [<https://perma.cc/7F7N-DWCM>] (last visited Sept. 18, 2026).

Forest Plan, and public engagement with motor vehicle and non-motor vehicle users and other members of the public.³⁵ These decisions are individualized and based on a variety of considerations.

For example, in creating the travel management plan for the Santa Fe National Forest in New Mexico, the USFS received thousands of comments, met with stakeholders, hosted dozens of public meetings and workshops, and engaged in field visits to observe conditions on the ground.³⁶ The USFS prepared an Environmental Impact Statement (EIS) pursuant to NEPA and evaluated alternative travel management plans.³⁷

Ultimately, the USFS officials for the Santa Fe National Forest decided to move from a system that had routes and areas that were presumptively open to motorized use unless closed, to a system would prohibit driving on roads, trails, and other areas not designated in a MVUM.³⁸ USFS officials considered each route and closed certain roads, trails, and areas that were previously open and vice versa.³⁹ The local Forest Supervisor explained that they settled on the chosen plan “because it designates the roads forest staff evaluated as needed for access or recreation, are situated in locations not harmful to natural or cultural resources, and can be maintained to prevent damage to natural and cultural resources.”⁴⁰ Specifically, the local USFS officials evaluated the general and specific criteria in the TMR and analyzed impacts to water quality, wildlife habitat, inventoried roadless areas, neighboring populated areas, conflicts between uses, recreation, and more.⁴¹ The Forest Supervisor noted that “based on the public’s comments, [the plan] is a compromise that balances the desires of motorized recreational users while maintaining natural and cultural resource values.”⁴² Additionally, the Forest Supervisor noted that the chosen designation establishes “a motorized trail system that the forest can reasonably maintain, especially with volunteer help Designating any more miles of trail at this time is likely to stretch the forest’s limited maintenance resources.”⁴³ As this example illustrates, travel

³⁵ *Cent. Sierra Env’t Res. Ctr. v. U.S. Forest Serv.*, 916 F. Supp. 2d 1078, 1084 (E.D. Cal. 2013) (explaining that the USFS is required to comply with NEPA and engaged in public outreach in making a travel management decision for the Stanislaus National Forest).

³⁶ U.S. FOREST SERV., FINAL ENVIRONMENTAL IMPACT STATEMENT FOR TRAVEL MANAGEMENT ON THE SANTA FE NATIONAL FOREST 5–6 (2012), <https://www.fs.usda.gov/r03/santafe/projects/23629> [<https://perma.cc/UTH5-4E3U>].

³⁷ *Id.* at 1.

³⁸ U.S. FOREST SERV., RECORD OF DECISION FOR TRAVEL MANAGEMENT ON THE SANTA FE NATIONAL FOREST 1–5 (2012), <https://www.fs.usda.gov/r03/santafe/projects/23629> [<https://perma.cc/3AM7-FCCN>] [hereinafter “SFNF ROD”]; *New Mexico Off-Highway Vehicle All. v. U.S. Forest Serv.*, No. 12CV1272 WJ/GBW, 2014 WL 6663755, at *1 (D.N.M. July 25, 2014), *appeal dismissed and remanded*, 645 F. App’x 795 (10th Cir. 2016), and *opinion vacated and superseded sub nom. New Mexico Off-highway Vehicle All. v. United States Forest Serv.*, No. 1:12-CV-01272 WJ-LFG, 2016 WL 5110259 (D.N.M. Sept. 15, 2016) (explaining that under the prior plan for the Santa Fe National Forest, “areas were presumptively open for motorized use and motorists could travel anywhere in the SFNF unless specifically prohibited”).

³⁹ SFNF ROD, *supra* note 38, at 1–5.

⁴⁰ *Id.* at 8.

⁴¹ *Id.* at 11–18.

⁴² *Id.* at 15.

⁴³ *Id.* at 16.

management decisions are currently made with significant public input and evaluation of factors specific to the National Forest unit for which the travel management plan is being developed.

The roads, trails, and areas that are ultimately designated as open for motor vehicle use are depicted on MVUMs, which show what types of vehicles are permitted on each road, trail, or area and at what time of year.⁴⁴ For example, the Santa Fe National Forest MVUMs are accessible to the public online and are available for free at the Forest Supervisor's office.⁴⁵

III. Summary of Notice of Intent and Proposed Revisions

On May 29, 2026, President Trump signed an Executive Order titled "Removing Unnecessary and Counterproductive Restrictions on Access to Federal Lands," which rescinded the two existing travel management Executive Orders.⁴⁶ Then, on August 24, 2026, the USFS issued this Notice of Intent to initiate an EIS and rulemaking to revise the TMR.⁴⁷ The proposed revisions would make the following changes, among others, to the TMR:

- "[E]stablish a presumption that existing roads, trails . . . and other access routes and points on NFS lands are open to appropriate public use unless closure or restriction is required by applicable law, valid existing rights, or another governing instrument, or is supported by specific, documented and justifiable reasons based on science-based resource conditions, public safety, conflicts among uses, or maintenance and administrative capacity."⁴⁸
- "[R]equire . . . an annual unit-level process to identify closed or highly restricted trails, roads, . . . and other access routes and points that may warrant reconsideration."⁴⁹
- "[E]stablish a requirement to consider new roads, trails . . . and other access routes and points where appropriate to increase access."⁵⁰
- "[R]emove the national minimization criteria and establish a nationally applicable access policy under which local officials would make designation and closure decisions based on documented local conditions and needs."⁵¹

⁴⁴ *Off-Highway Vehicle Program - Motor Vehicle Use Maps*, U.S. FOREST SERV., <https://www.fs.usda.gov/visit/recreation/programs/off-highway-vehicle-program/maps> [<https://perma.cc/E4N6-J66M>] (last visited Sept. 18, 2026) [hereinafter "MVUMs"].

⁴⁵ *Santa Fe National Forest Motor Vehicle Use Maps*, U.S. FOREST SERV., <https://www.fs.usda.gov/r03/santafe/maps-guides/santa-fe-national-forest-motor-vehicle-use-maps> [<https://perma.cc/C9HB-P5TP>].

⁴⁶ Exec. Order 14408, 91 Fed. Reg. 33577 (June 3, 2026).

⁴⁷ Travel Management; National Forest System Lands, 91 Fed. Reg. 54686 (Aug. 24, 2026).

⁴⁸ *Id.* at 54689.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 54688.

- “[R]eplace the current minimum-road-system requirement with criteria for determining an adequate and appropriate forest transportation system, including access needs, resource protection, safety”⁵²
- “[E]stablish processes . . . for authorizing limited off-route motor vehicle” use for things like big-game retrieval and dispersed camping and for designating over-snow recreation.⁵³
- “[A]dd specified categories of exempt vehicles or uses.”⁵⁴
- Exempt class 1 electric bicycles from the motor vehicle use designation requirement.⁵⁵
- “[S]implify” public involvement and governmental coordination requirements such that they do not apply to “clerical corrections and minor designation revisions.”⁵⁶
- “[C]larify that travel management . . . decisions . . . need not be made through the procedures governing development, amendment, or revision of land management plans, unless a plan amendment or revision is required to resolve inconsistency with an applicable plan.”⁵⁷

The Notice of Intent states that the “access presumption set forth in the national policy would guide future decisions and would not itself open a currently closed route . . . except to the extent that the amended regulations expressly make a specified vehicle- or use-specific exemption self-executing.”⁵⁸ It further states that “[e]xisting motor vehicle use designations, including the designations shown on MVUMs and OSVUMs [“Over-Snow Vehicle Use Maps”] would remain in effect until revised under the amended regulations.”⁵⁹ Future designation decisions would “be made by local officials after analysis and evaluation of land and resource conditions, consistent with applicable law.”⁶⁰ Without conceding that the proposed revisions should be construed this way, the States are concerned that the proposed changes would lead to more roads, trails, and areas that are open to motorized travel and force local USFS officials to open closed routes and remove appropriate restrictions on others.

IV. National Forest Land Within Our States and Undersigned States’ Interest

The USFS manages over 193 million acres of land in the United States, including 154 National Forests and twenty National Grasslands located across forty-four states, Puerto Rico, and the Virgin Islands.⁶¹ Within the boundaries of the States alone, there is over 73 million acres of

⁵² *Id.* at 54689.

⁵³ *Id.*

⁵⁴ *Id.* at 54690.

⁵⁵ *Id.*

⁵⁶ *Id.* at 54689.

⁵⁷ *Id.* at 54688.

⁵⁸ *Id.* at 54690.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Land Area Reports*, U.S. FOREST SERV., <https://www.fs.usda.gov/managing-land/lands-minerals-geology/land-area-reports> [<https://perma.cc/CWK2-93W6>] (last visited Sept. 18, 2026).

National Forest land. These lands are part of an interconnected network of federal and state lands that provide wildlife habitat, recreation opportunities, and ecological resources for the benefit of the entire country.

a. New Mexico

Within the boundaries of the State of New Mexico, there are approximately 9,327,000 acres of National Forest System land.⁶² Seven National Forest units are located entirely or partially within New Mexico's borders: Apache National Forest, Carson National Forest, Cibola National Forest, Coronado National Forest, Gila National Forest, Lincoln National Forest, and Santa Fe National Forest.⁶³ Additionally, New Mexico contains one National Grassland: Kiowa National Grassland.⁶⁴ Pursuant to the TMR, these National Forests have created travel management plans and prepared and issued MVUMs under 36 C.F.R. § 212.56 to identify roads and other areas designated for motor vehicle use.⁶⁵ The process outlined in the TMR has ensured that local land managers provide access for motorized vehicle users while minimizing harms to natural resources and conflicts among other users. If the USFS revises the TMR, New Mexico is concerned that it may suffer adverse consequences from increased unmanaged motorized vehicle use. New Mexico's ecology and environment would likely be negatively affected, as would its economy: such use could endanger its scarce water resources, impair the ability of individuals to engage in non-motorized outdoor recreation, and destroy the untainted natural beauty upon which much of New Mexico's tourism industry depends.

New Mexico is an arid state with scarce water resources, including a finite amount of safe and clean drinking water for New Mexicans across the state.⁶⁶ Many people in New Mexico receive drinking water from the Rio Grande, which has tributaries that flow through or originate in New Mexico's National Forests.⁶⁷ This clean water is precious, and failing to protect surface water, like the Rio Grande, from increased runoff, sedimentation, and pollutants, would harm water quality, decrease availability of clean water, and increase water treatment costs.

⁶² *Roadless Areas Inventoried by State: New Mexico*, U.S. DEP'T OF AGRIC., <https://www.fs.usda.gov/managing-land/planning/roadless/state-maps> [<https://perma.cc/2QKH-KAWR>] (last visited Sept. 18, 2026).

⁶³ U.S. DEP'T OF AGRIC., 2025 LAND AREAS REP. TABLE 4 (2025), <https://usfs-public.app.box.com/s/rhq1lm3rq3wauhtz6yulanuzoijaaqsw/file/2146441547631> [<https://perma.cc/6HAH-MW75>].

⁶⁴ *Id.*

⁶⁵ MVUMs, *supra* note 44.

⁶⁶ See N.M. OFF. OF THE GOVERNOR, 50-YEAR WATER ACTION PLAN 3 (2025), <https://www.nm.gov/assets/www.nm.gov/wp-content/uploads/2024/01/New-Mexico-50-Year-WaterAction-Plan.pdf> [<https://perma.cc/D6TR-HHBX>] (explaining that NM will have shortage of 750,000 acre-feet of water within the next fifty years).

⁶⁷ See *Rio Grande Basin*, N.M. OFF. OF THE STATE ENG'R, <https://www.ose.nm.gov/Basins/RioGrande/index.php> [<https://perma.cc/97A6-SUA4>] (last visited Sept. 16, 2026); compare with *Forest Management Dashboard*, U.S. FOREST SERV., <https://usfs.maps.arcgis.com/apps/webappviewer/index.html?id=100f81e3161d4cf19175e1c3815f7280> (last visited Sept. 16, 2026).

National Forests in New Mexico are also home to many native, threatened, and endangered species. New Mexico is rich in biodiversity, with approximately 4,600 known species, including ninety known endemic species and numerous endangered and threatened species such as the jaguar, Mexican wolf, New Mexico meadow jumping mouse, and the Mexican spotted owl.⁶⁸ New Mexico's forests comprise a diverse set of ecological zones, including mountainous subalpine forests and alpine tundra, ponderosa pine forests, and riparian ecosystems. These zones support many species in addition to those listed above, including black bears, mountain lions, big horn sheep, elk, and mule deer.⁶⁹ Increased unmanaged motorized vehicle activity would likely harm these species, leading to habitat fragmentation, increased collisions, and disturbances. Road runoff and sedimentation may also degrade the habitat of aquatic and semi-aquatic species.

Further, New Mexico's National Forests are often near or adjacent to pueblos, tribal lands, and lands with historical, religious, and/or cultural significance. For example, the Cibola National Forest contains sacred sites such as Mount Taylor, which is a pilgrimage site for the Acoma, Zuni, Jemez, and Laguna Pueblos, the Navajo Nation and others.⁷⁰ As another example, the Santa Fe National Forest borders cultural and historical heritage sites such as Bandelier National Monument and Kasha-Katuwe Tent Rocks National Monument. Authorizing more motorized vehicles in National Forests in New Mexico without adequately considering impacts to cultural, historical, and religious sites is likely to result in harm to those precious areas.

Revising the TMR may also affect New Mexico's tourism industry, which is significant and growing.⁷¹ Outdoor recreation contributes \$3.6 billion and 31,454 jobs to New Mexico's economy, outpacing industries like farming, mining, and utilities.⁷² Much of this recreation is nature-based and/or non-motorized, such as hunting, trapping, climbing, hiking, and tent camping.⁷³ Many of these activities occur on New Mexico's 9,327,000 acres of National Forest land, and revising the TMR would impact those seeking to engaging in non-motorized recreation.

⁶⁸ *New Mexico Threatened and Endangered Species Program*, U.S. BUREAU OF LAND MGMT., <https://www.blm.gov/programs/wildlife/threatened-and-endangered/state-te-data/new-mexico> [<https://perma.cc/R7D2-SC7Q>] (last visited Sept. 16, 2026); *New Mexico Ecological Services Field Office*, U.S. FISH & WILDLIFE SERV., <https://www.fws.gov/office/new-mexico-ecological-services/species> [<https://perma.cc/4SFG-QHMX>] (last visited Sept. 16, 2026).

⁶⁹ Andrew Black, *From Sacred Majesty to Sound Management*, NAT'L WILDLIFE FED. BLOG, <https://blog.nwf.org/2019/10/from-sacred-majesty-to-sound-management/> [<https://perma.cc/A9V5-V92J>] (last visited Sept. 16, 2026).

⁷⁰ *Mount Taylor*, NATIONAL TRUST FOR HISTORIC PRESERVATION, <https://savingplaces.org/places/mount-taylor> [<https://perma.cc/N7KM-R8AK>] (last visited Sept. 18, 2025); U.S. NUCLEAR REGULATORY COMMISSION, MT. TAYLOR TRADITIONAL CULTURAL PROPERTY: DETERMINATION OF ELIGIBILITY 15–28 (2009), <https://www.nrc.gov/docs/ML0904/ML090440287.pdf> [<https://perma.cc/WYK2-MD2H>].

⁷¹ *State Sets Visitor Spending Record for Third Straight Year*, N.M. TOURISM DEPT., <https://www.newmexico.org/industry/news/post/state-sets-visitor-spending-record-for-third-straight-year/> [<https://perma.cc/64K4-24LU>] (Aug. 21, 2025).

⁷² *Outdoor Recreation Drives \$3.6 Billion, 31,000 Jobs in New Mexico*, ECON. DEV. N.M., <https://edd.newmexico.gov/press-releases/outdoor-recreation-drives-3-6-billion-31000-jobs-in-new-mexico/> [<https://perma.cc/ED5E-3QGR>] (Mar. 11, 2026).

⁷³ *Id.*

b. California

California contains approximately 20,802,641 acres of National Forest System land in eighteen National Forests and other assorted administrative units. These include the Angeles National Forest, Cleveland National Forest, Eldorado National Forest, Humboldt-Toiyabe National Forest, Inyo National Forest, Klamath National Forest, Lassen National Forest, Los Padres National Forest, Mendocino National Forest, Modoc National Forest, Plumas National Forest, San Bernardino National Forest, Sequoia National Forest, Shasta-Trinity National Forest, Sierra National Forest, Six Rivers National Forest, Stanislaus National Forest, Tahoe National Forest.⁷⁴ Pursuant to the TMR, all of California's National Forests, as well as the Lake Tahoe Basin Management Unit, have created travel management plans and prepared and issued MVUMs.⁷⁵ The process required by the TMR has been crucial in supporting local Forest Service personnel's efforts to balance competing resource demands by providing access for motorized vehicle users while minimizing harms to natural resources and conflicts with other recreational users. If the USFS revises the TMR in the way it proposes, the ability of Forest Service personnel on the ground in California's National Forests to effectively manage motor vehicle use would be impaired. This in turn would lead to California and its residents suffering harm from unmanaged motorized vehicle use that would endanger its wildlife and water resources and harm those engaged in non-motorized outdoor recreation.

c. Colorado

Colorado encompasses roughly sixty-six million acres, of which approximately 14.5 million acres are managed by USFS. Overall, USFS manages land that constitutes nearly twenty-two percent of Colorado's total landmass and forty-seven percent of Colorado's forests. This USFS-managed land provides significant recreational opportunities throughout the state and crucial habitat for Colorado's renowned big game populations as well as other wildlife.

Given the millions of acres in USFS-managed land, and 40,000 miles of existing roads and trails on public lands in Colorado,⁷⁶ travel management planning is crucial to the success of Colorado's economy as well as resource stewardship, wildlife and habitat conservation, access to recreational activities, and visitor experience.

Outdoor recreation contributes substantially to Colorado's economy. As of 2023, the total economic output associated with outdoor recreation by Colorado residents amounted to nearly sixty-six billion dollars. Outdoor recreation accounted for more than 404,000 jobs in the state, representing twelve percent of the entire labor force in Colorado and producing \$22.2 billion

⁷⁴ *Pacific Southwest Region, About the Area*, U.S. DEPT. OF AG., <https://www.fs.usda.gov/r05/about-area> [<https://perma.cc/D825-3RFW>] (last visited Sept. 17, 2026).

⁷⁵ See United States Forest Service, *Off-Highway Vehicle Program - Motor Vehicle Use Maps*, <https://www.fs.usda.gov/visit/recreation/programs/off-highway-vehicle-program/maps> [<https://perma.cc/UYT2-ES8Y>] (last visited Sept. 16, 2026).

⁷⁶ Colorado Trail Explorer, CO TREX, <https://trails.colorado.gov/> [<https://perma.cc/L4YR-M728>].

dollars in salaries and wages.⁷⁷ Clear and sustainable travel management is crucial to the continued success of Colorado's economic reliance on outdoor recreation.

Additionally, Colorado is one of the premier western hunting destinations for big game, including bighorn sheep, mule deer, moose, pronghorn, black bear, and elk. In 2025, Colorado received 700,000 applications for limited big game hunting licenses, and provided an additional 300,000 hunters the opportunity to hunt elk with over-the-counter hunting licenses. But increased year-round recreational activity and higher road density and vehicle traffic threatens Colorado's ability to continue to offer sustainable hunting opportunities to the public.

d. Minnesota

Within the State of Minnesota, there are approximately 2,838,000 acres of National Forest System land, including the Superior National Forest, which contains the Boundary Waters Canoe Area Wilderness, and the Chippewa National Forest.⁷⁸ Pursuant to the TMR, these National Forests have created travel management plans and prepared and issued MVUMs.⁷⁹ The Superior National Forest is the eighth most visited forest in the National Forest System.⁸⁰ Over 445,000 acres of the Superior National Forest is surface water, with more than 1,300 miles of cold water streams and 950 miles of warm water streams within its boundaries.⁸¹ The National Forests in Minnesota include some of the most ecologically intact areas within the National Forest System, which act as vital carbon sinks, safeguard water quality, and protect wildlife habitats.

The Superior and Chippewa National Forests provide critical habitats for numerous fish and wildlife species. Several endangered, threatened, and sensitive species live in or near the Superior and Chippewa National Forests, including the Canada lynx, gray wolf, and northern long-eared bat.⁸² These National Forests also contain key migratory corridors for wolves, moose, black bears, and migratory birds.⁸³ Abundant fish populations, including walleye, northern pike, bass, trout, and muskie can be found in the Superior and Chippewa National Forests.⁸⁴ The outdoor recreation industry in Minnesota—including paddling, camping, hiking, fishing, hunting, and

⁷⁷ Southwick & Assocs., *The 2023 Economic Contributions of Outdoor Recreation in Colorado*, COLO. PARKS & WILDLIFE (2024), <https://swiftmedia.s3.amazonaws.com/mountain.swiftcom.com/images/sites/2/2024/10/14134722/SCORP.pdf> [<https://perma.cc/CBG3-DV24>].

⁷⁸ Roadless Areas Inventoried by State, *supra* note 62.

⁷⁹ See MVUMs, *supra* note 44.

⁸⁰ U.S. Dep't of Agric., *About the Area*, <https://www.fs.usda.gov/r09/superior/about-area> [<https://perma.cc/QG9V-PQDD>] (last visited Sept. 21, 2026).

⁸¹ *Id.*

⁸² See Minnesota-Wisconsin Ecological Services Field Office, *Featured Species*, U.S. Fish & Wildlife Servs., <https://www.fws.gov/office/minnesota-wisconsin-ecological-services/species> [<https://perma.cc/285D-ZPM9>] (last visited Sept. 21, 2026).

⁸³ Discover the Range, *Superior Nat'l Forest Wildlife Guide*, <https://ironrange.org/superior-national-forest-wildlife/> [<https://perma.cc/ZC99-9PHB>] (last visited Sept. 21, 2026).

⁸⁴ U.S. Dep't of Agric., *About the Area*, <https://www.fs.usda.gov/r09/superior/about-area> [<https://perma.cc/QG9V-PQDD>] (last visited Sept. 21, 2026); U.S. Dep't of Agric., *Animals and Plants*, <https://www.fs.usda.gov/r09/chippewa/animals-plants> [<https://perma.cc/XL68-KBHA>] (last visited Sept. 21, 2026).

ecotourism—contributes \$13.5 billion in GDP, supports over 96,000 jobs, and depends upon the wilderness character of these public lands.⁸⁵

If the USFS revises the TMR, Minnesota is concerned that it may suffer adverse consequences from increased unmanaged motorized vehicle use, including negative impacts on its environment, ecology, and economy. These consequences could include degrading water quality, endangering fish and wildlife species, fragmenting critical habitats, and harming historic, archaeological, and other important sites in the Superior and Chippewa National Forests. Revising the TMR may also have adverse consequences for Minnesota’s outdoor recreation industry, including negatively impacting individuals who seek to engage in non-motorized outdoor recreation.

e. Oregon

In the State of Oregon, there are roughly 15.6 million acres of National Forest land, representing one-quarter of the State’s total acreage. This includes the following National Forests: Deschutes, Malheur, Mt. Hood, Ochoco, Rogue River-Siskiyou, Siuslaw, Umatilla, Umpqua, Wallowa-Whitman, Willamette, and Fremont-Winema. The Oregon National Forests have old-growth forests; provide important habitat for mammals, birds, and fish; protect water quality for municipal water supplies; and provide significant recreational opportunities throughout Oregon.

For example, there are roughly 8.5 million acres of old-growth forests in Oregon’s National Forests. There are also imperiled species in Oregon that the Forest Service previously determined are likely to be adversely affected by roads. These include, but are not limited to: the bald eagle; the brown pelican; the northern spotted owl; marbled murrelet, the Southern Oregon/Northern CA Coast Evolutionary Significant Unit (“ESU”) of coho salmon; the Lower Columbia River ESU of steelhead; the Middle Columbia River ESU of steelhead; the Snake River Basin ESU of steelhead; the Upper Willamette ESU of steelhead; the Lower Columbia River ESU of chinook salmon; the Snake River Fall-run ESU of chinook salmon; the Snake River spring/summer-run ESU of chinook salmon; the Upper Willamette River ESU of chinook salmon; and bull trout.

Opening roads and trails could fragment habitat that is relied upon by Oregon’s wildlife and increases the chance that invasive species will be introduced into these areas. Some of the travel management areas also overlap with designated critical habitat under the ESA and may be adversely modified with a new rule. Examples that may be affected include northern spotted owl and salmon and steelhead designated critical habitats.

The effects on Oregon’s wildlife, in particular imperiled species, and the habitat they rely upon should be examined closely within the DEIS alternatives so that it can inform a formal Section 7(a)(2) consultation under the ESA. A formal ESA consultation is required in these

⁸⁵ 2025 *Minnesota Impacts of Outdoor Recreation*, Minn. Outdoor Recreation Indus. P’Ship, https://outdoorindustrypartnership.com/wp-content/uploads/2025/07/2025-Explore-Minnesota_Economic-Impacts-Outdoor-Recreation_V2.pdf [<https://perma.cc/G776-PBEP>].

circumstances because repeal of the rule may adversely affect listed threatened and endangered species and designated critical habitat.

The effects on wildlife are not limited to just imperiled species. Scientific literature has consistently demonstrated that wildlife, like elk, avoid areas with motorized road densities or vehicle use of roads.⁸⁶ Increased motorized vehicle use on Forest Service lands will reduce the amount of secure habitat for elk with various negative consequences to their management and populations. Elk are likely to be displaced from public lands to private lands, reducing hunting opportunities for the general public, contrary to the intent of Executive Order 13443. In 2019, Oregon's hunting-related expenditures were estimated to be \$161.8 million.⁸⁷ Increased motorized vehicle use on Forest Service lands will likely lead to decreased hunting opportunity on NFS lands due to reduced populations or displacement of animals. This could harm local economies by reducing local hunting expenditures and negatively affect residents through reduced subsistence opportunities.

Displacement of elk to private lands adjacent to National Forests will increase the already significant damage these animals cause to agricultural crops, land, and infrastructure and increase economic hardship to local farmers and ranchers. Using travel management to limit human disturbance on existing road systems has been a key tool for Oregon to provide secure, high-quality habitat for elk and other species sensitive to human disturbance on public lands as a service to adjacent private landowners.

These National Forests also help protect water supplies throughout Oregon. There are several cities, for example Bend, Ashland, and Pendleton Oregon, where travel management areas comprise a significant portion of their municipal drinking watersheds. Increasing travel in these areas has the potential to lead to sedimentation effects, which can have adverse impacts on water quality within a particular watershed and beyond. The DEIS should closely examine the effects on water quality, particularly on these municipal water supplies.

Oregon's National Forests also provide significant recreational opportunities. For example, some of the National Forests are located near major population centers, like Portland and Mt. Hood National Forest, which continue to experience increasing demand for recreational opportunities. Opening closed roads and trails may have an adverse effect on recreation and these effects should be carefully evaluated in the DEIS.

⁸⁶ Leslie M. Naylor et al., *Behavioral Responses of North American Elk to Recreational Activity*, 73 J. WILDLIFE MGMT. 328 (2009); Derek B. Spitz et al., *Behavioral Changes and Nutritional Consequences to Elk (Cervus Canadensis) Avoiding Perceived Risk from Human Hunters*, 10 ECOSPHERE (2019).

⁸⁷ JOHNNY MOJICA ET AL., EARTH ECON., ECON. ANALYSIS OF OUTDOOR RECREATION IN OREGON 32 (2021), <https://static1.squarespace.com/static/5c17e30fec4eb7fbc15edc2e/t/645d261f04657152fd3d3e69/1784222520838/Mojica+etal+2021+Economic+Analysis+of+Outdoor+Recreation+in+Oregon.pdf> [<https://perma.cc/3KGQ-TGRE>].

f. Washington

Washington State contains 9.2 million acres of National Forest land, about one-fifth of the State's total land mass.⁸⁸ Washington's National Forests connect to and expand upon habitat located in all three national parks in Washington: Olympic National Park, North Cascades National Park, and Mount Rainier National Park. National Forests also either contain portions of or affect water bodies throughout the State, such as Lake Chelan, Quinault Lake, Baker Lake, the Snake River, the Hood Canal, the Columbia River, the Upper Willamette River, and ultimately Puget Sound. Washington's state-owned forest properties border many of the national forest properties in Washington. These lands include the Washington State Department of Natural Resources' timberlands adjacent to the Olympic National Forest, the Gifford Pinchot National Forest, the Mount Baker-Snoqualmie National Forest, the Okanogan National Forest, and the Colville National Forest.⁸⁹

Washington's National Forests provide opportunities to enjoy scenic vistas, hunting, camping, fishing, and hiking, all of which attract business development within the State. Washington State sees billions of dollars' worth of benefit from recreation in the forest system. This includes the economic benefit the State sees from recreational and commercial fishing of anadromous fish, such as salmon, that spawn in forested lands. More broadly, outdoor recreation in Washington supports \$26.5 billion in annual expenditures from residents and tourist on trips, fishing, boating, and outdoor recreation gear.⁹⁰ This amounts to over \$40 billion in total economic contributions, about \$400 million of which are tied directly to U.S. Forest Service lands.⁹¹

Additionally, Washington's National Forests support wildlife, including endangered wildlife. Multiple fish species native to Washington that are listed as threatened or endangered under the ESA have habitat in the inventoried roadless areas, including sockeye, chum, and chinook salmon, steelhead trout, and bull trout. Terrestrially, the Canada lynx, the grizzly bear, the gray wolf, the woodland caribou, the marbled murrelet and the northern spotted owl are all endangered species with habitat in or affected by the inventoried roadless areas. Washington State has invested significant resources, time, and money into recovery of these listed species. Under Washington law, wildlife, fish, and shellfish are property of the State.⁹²

Revising the TMR will harm these interests and important functions of Washington's National Forests. The proposed revisions would allow motorized vehicles on these lands without

⁸⁸ Wash. State Dep't of Nat. Res., *Washington State Wildland Fire Protection 10-Year Strategic Plan*, at 44-45 (2019), https://dnr.wa.gov/sites/default/files/2025-05/rp_wildfire_strategic_plan.pdf [<https://perma.cc/9E3A-KGVA>].

⁸⁹ Washington State Trust Lands Map, available at https://dnr.wa.gov/sites/default/files/2025-03/eng_rms_trustlands_map_nu2.pdf [<https://perma.cc/CD7G-G4MF>].

⁹⁰ Earth Economics, *Economic Analysis of Outdoor Recreation in Washington State, 2020 Update*, at 13, available at <https://rco.wa.gov/wp-content/uploads/2020/07/EconomicReportOutdoorRecreation2020.pdf> [<https://perma.cc/7J9V-VAVT>], hereinafter *Economic Analysis*.

⁹¹ *Economic Analysis* at 15.

⁹² Wash. Rev. Code § 77.04.012.

regard to their importance as habitat, non-motorized recreation value, and ecosystem services. This harms Washington and its residents by failing to account for whether motorized vehicles are appropriate in particular areas and whether their presence will harm other important uses.

V. The States' Concerns with the Notice of Intent

NEPA establishes a national policy to “encourage productive and enjoyable harmony between man and his environment” and “to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.”⁹³ To effectuate this policy, NEPA requires that federal agencies prepare an EIS for “major Federal actions significantly affecting the quality of the human environment.”⁹⁴ This requirement “ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts” and it also “guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision.”⁹⁵ The EIS must be “detailed” and include components such as “reasonably foreseeable environmental effects of the proposed agency action” and “a reasonable range of alternatives to the proposed agency action.”⁹⁶

The USFS’s Notice of Intent is part of the initial NEPA scoping process and expresses the intent to prepare an EIS regarding proposed revisions to the TMR. The Notice of Intent is required to include, among other components, the purpose and need of the proposal, a preliminary description of the proposed action and any identified alternatives, a preliminary list of substantive issues to be analyzed, and a request for public comment.⁹⁷ The States have the following concerns with the proposed revisions:

a. The Proposed Revisions are Premature, and the USFS Must Analyze their Impacts in the Context of the Proposed Recission of the Roadless Rule.

On August 20, 2026—only three days prior to the issuance of this Notice of Intent—the USFS proposed to rescind the 2001 Roadless Area Conservation Rule, an environmental safeguard that prohibits the construction or reconstruction of roads and timber harvesting, with limited exceptions, in Inventoried Roadless Areas (IRAs) in National Forests.⁹⁸ The USFS also released a draft EIS regarding the proposed recission and sought public comment on the proposal and the EIS.⁹⁹ The public comment period on the proposed recission of the Roadless Rule closes on October 06, 2026 and the proposed rule has already received over 240,000 comments via Regulations.gov. The USFS has not yet reviewed and evaluated the public comments, and the

⁹³ 42 U.S.C. § 4321.

⁹⁴ *Id.* § 4332(C).

⁹⁵ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

⁹⁶ 42 U.S.C. § 4332(C).

⁹⁷ 7 C.F.R. § 1b.7(b)(1).

⁹⁸ Special Areas; Roadless Area Conservation, 91 Fed. Reg. 53827 (Aug. 20, 2024).

⁹⁹ *Id.*

USFS has not issued a final decision on whether to finalize the proposed rescission. Several of the States submitted a comment in opposition to the Notice of Intent to rescind the Roadless Rule.¹⁰⁰

The TMR and the Roadless Rule are highly related. The Roadless Rule limits road construction and timber harvesting in IRAs in the National Forest System.¹⁰¹ The TMR establishes a framework for USFS officials to determine where motorized vehicles should be permitted within the National Forest System such that impacts to natural resources and conflicts with other uses are minimized, including those impacts within IRAs.¹⁰²

Both the construction of roads and the use of roads by motorized vehicles have environmental and recreational effects.¹⁰³ Together, those effects compound. If more roads are constructed or reconstructed due to rescission of the Roadless Rule, there would be an increase in the miles of routes available to be designated for motorized travel, multiplying the potential impacts of the proposed revisions to the TMR. On the flip side, the potential impacts of the proposed rescission of the Roadless Rule would be intensified if the TMR was revised because new and reconstructed routes within IRAs would be open for designation for motor vehicle travel, leading those roads to have an even greater impact on the environment and recreation than they would if their use was limited to non-motorized use or a subset of motorized vehicles.

Given the highly related nature of these two existing rules, the environmental impacts, implementation feasibility, and alternatives to the proposed revisions to the TMR cannot be adequately evaluated unless and until the USFS has evaluated the environmental impacts and made a decision on whether or not to issue a final rule rescinding the Roadless Rule.

At the very least, the USFS must evaluate the environmental and recreational impacts of the proposed revisions to the TMR in the context of the proposed rescission of the Roadless Rule, including the impacts of motorized vehicle use in current IRAs.¹⁰⁴ Additionally, if the Roadless Rule is rescinded, the USFS must consider and explain how the proposed revisions to the TMR would apply to old and new roads, trails, and other areas in current IRAs. The States are concerned

¹⁰⁰ State Attorneys General of Washington, California, Arizona, Massachusetts, Minnesota, New Mexico, Oregon, and Vermont, Comment on the United States Department of Agriculture, Forest Service Notice of Intent to Prepare an Environmental Impact Statement for its Proposal to Rescind the 2001 Roadless Area Conservation Rule, 90 Fed. Reg. 42179 (Sept. 19, 2025), https://stateimpactcenter.org/files/AG_Actions_Roadless_Rule_Comments_09.19.2025.pdf [hereinafter “State AGs Roadless Rule NOI Comments”].

¹⁰¹ 36 C.F.R. pt. 294, subpart B.

¹⁰² *Guzman*, 766 F. Supp. 2d at 1065 (explaining that in evaluating the plan for motorized travel in a specific National Forest, “the Forest Service was required to examine the cumulative impact of past, present, and future motorized use on the roadless and wilderness characteristics of the [Wilderness Areas] and [Inventoried Roadless Areas]”).

¹⁰³ See State AGs Roadless Rule NOI Comments, *supra* note 100; Section V(c), *infra*.

¹⁰⁴ 42 U.S.C. § 4332(C)(i) (requiring agencies to consider “reasonably foreseeable” environmental effects). It is “reasonably foreseeable” that the USFS will promulgate a rescission of the Roadless Rule, which will lead to cumulative impacts in conjunction with any TMR revisions. See *Wyoming v. U.S. Dep’t of Agric.*, 661 F.3d 1209, 1251 (10th Cir. 2011) (“The Forest Service does not dispute that it was required to include a discussion of the cumulative impacts of . . . four coordinated rulemakings.”).

that the opening of these routes and areas to motor vehicles without a robust review of environmental and recreational impacts would lead to confusion, chaos, and environmental degradation of areas of untainted beauty and immense resource value.¹⁰⁵

b. The Proposed Revisions are Arbitrary, Unclear, and Inconsistent.

- i. The USFS must ensure adequate opportunity for public participation throughout the environmental review and rulemaking process.*

The proposed revisions to the TMR will have far-reaching impacts on the over 193 million acres of National Forest land across the country, along with lands that are connected to or depend on the resources contained within National Forest land and the many different National Forest land users. Thus, significant public involvement is necessary across each stage of the NEPA process. Public participation has a central role in the environmental review process under NEPA.¹⁰⁶ Feedback at the scoping stage, particularly for a proposal with such wide-reaching impacts, is critical because the public has an opportunity to identify issues—including environmental, social, and economic impacts—that the USFS should consider when conducting its environmental review.¹⁰⁷ However, the USFS has only provided a brief thirty-day period for comments on this Notice of Intent, which is inadequate to identify all the issues that the USFS should consider in determining the scope of its EIS. Revising the TMR will have significant and wide-ranging impacts and the USFS ought to facilitate a robust public engagement process both during the scoping period and once a draft EIS and proposed rule are published.

- ii. A nationwide presumption of “open unless affirmatively closed” analyzed pursuant to a generalized national EIS disregards the importance of site-specific management decisions and the requirements of NEPA.*

The proposed revisions would establish a presumption that National Forest lands are open to motorized vehicles unless closed.¹⁰⁸ This presumption, in combination with annual review and route identification requirements, suggests that USFS officials would be mandated—or, at least, pressured—to update their travel management plans and MVUMs for individual National Forest units and Ranger Districts to open more area to motorized travel. At this time, the States do not contest that the USFS generally has authority to promulgate nationwide rules under its Organic

¹⁰⁵ See, e.g., David J. Mildrexler et al., *Roadless Rule Recission Threatens Highest Integrity Forest Ecosystems in the United States*, 321 BIOLOGICAL CONSERVATION 111950 (2026); McKinley J. Talty et al., *Conservation Value of National Forest Roadless Areas*, CONSERVATION SCI. AND PRAC. 2020.

¹⁰⁶ See 42 U.S.C. § 4332(2)(C); *Robertson*, 490 U.S. at 349 (explaining that NEPA “guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision” and that an EIS “provides a springboard for public comment”).

¹⁰⁷ *Muhly v. Espy*, 877 F. Supp. 294, 295 n.1 (W.D. Va. 1995) (“Scoping is an early and open process used by federal agencies to determine the range of issues to be analyzed in an Environmental Impact Statement and to identify significant issues related to a proposed major federal action.”); *Webster v. U.S. Dep’t of Agric.*, 685 F.3d 411, 418 (4th Cir. 2012) (“During the scoping process, the agency must, among other things, invite participation and input by federal, state, and local agencies, as well as the public.”).

¹⁰⁸ 91 Fed. Reg. 54689.

Act.¹⁰⁹ However, the States believe this nationwide presumption is inappropriate for several reasons.

First, such a presumption would lead to unit-level, site-specific changes. However, the Notice of Intent explicitly states that the USFS does not intend to evaluate the localized impacts of these changes.¹¹⁰ Instead, the USFS proposes to conduct an EIS evaluating impacts on a national scale. This ignores that NEPA requires an EIS to evaluate all “reasonably foreseeable environmental impacts” of the proposed action.¹¹¹ It is reasonably foreseeable that roads, trails, and areas will be opened due to the presumption, and that these openings will have site-specific impacts. “NEPA is not designed to postpone analysis of an environmental consequence to the last possible moment.”¹¹² Thus, a generalized, nationally applicable presumption evaluated only pursuant to generalized, nationwide EIS is inappropriate.

Indeed, a national EIS will by its very nature be unable to analyze localized environmental and recreational impacts. Motorized vehicle use on public lands can have a wide range of environmental, social, and economic impacts that may affect each ecosystem and National Forest unit differently depending on the sensitivity of the ecosystem and other factors.¹¹³ Potential impacts of ORV use include, but are not limited to, soil degradation, reduced vegetation and increased invasive species, decreased water quality, fragmentation of habitat and disruption of wildlife, diminished air quality, and excessive noise.¹¹⁴ Thus, designations allowing motor vehicles that are made “inadvertently or without adequate consideration are particularly likely to have undesirable or unacceptable impacts on flora and fauna.”¹¹⁵ Further, opening areas to motorized vehicles would degrade the recreational experience of non-motorized users and even displace them

¹⁰⁹ *Wyoming*, 661 F.3d at 1234.

¹¹⁰ See 91 Fed. Reg. 54690 (explaining that the USFS largely does not intend to evaluate site-specific impacts).

¹¹¹ 42 U.S.C. § 4332(C).

¹¹² *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1072 (9th Cir. 2002).

¹¹³ Adams & McCool, *supra* note 10, at 49 (“ORV impacts on physical resources vary greatly by vehicle type, amount of use, season, recreationist behavior, and the sensitivity of the environment.”); Laura W. Ploughe & Lauchlan H. Fraser, *Find New Roads? A Systematic Review on the Impacts of Off-Road Vehicle Activity on Soil, Vegetation, and Wildlife*, FRONTIERS IN ECOLOGY AND EVOLUTION 2022, at 15 (“Different aspects of the site (e.g., soil type, vegetation, soil moisture, terrain, prior disturbance, etc.) and/or the type of ORV disturbance applied (e.g., vehicle weight/type, frequency of use, time of disturbance, etc.) likely play important roles in the apparent impacts of ORV use.”).

¹¹⁴ U.S. Geological Survey, *Environmental Effects of Off-Highway Vehicles on Bureau of Land Management Lands: A Literature Synthesis, Annotated Bibliographies, Extensive Bibliographies, and Internet Resources* xii–xiii (2007), https://www.researchgate.net/profile/Phadrea-Ponds/publication/242537198_Environmental_Effects_of_Off-Highway_Vehicles_on_Bureau_of_Land_Management_Lands_A_Literature_Synthesis_Annotated_Bibliographies_Extensive_Bibliographies_and_Internet_Resources/links/56095c5708ae576ce63e1e98/Environmental-Effects-of-Off-Highway-Vehicles-on-Bureau-of-Land-Management-Lands-A-Literature-Synthesis-Annotated-Bibliographies-Extensive-Bibliographies-and-Internet-Resources.pdf [<https://perma.cc/T4Y5-RE8B>] [hereinafter “Environmental Effects of OHVs on BLM Lands”].

¹¹⁵ Adams & McCool, *supra* note 10, at 51.

entirely.¹¹⁶ This is especially problematic in areas where local users have a preference for non-motorized recreation.

Second, such a presumption is substantively inappropriate. Each forest ecosystem has its own recreational needs and natural resources. Accordingly, the TMR was developed with the understanding that “decisions about specific routes and areas are best made by local officials with knowledge of those routes and areas, the local environment, and site-specific tradeoffs, with public involvement and in coordination with appropriate Federal, State, local, and tribal governments.”¹¹⁷ Individualized decisions, rather than a general “open” presumption, are crucial. An open-unless-closed presumption may force local USFS officials to make local decisions based on the presumption rather than on full consideration of the local impacts that vary based on the ecosystem, its sensitivity, the various uses of the National Forest System unit, the preferences of local recreational users, and other factors. In fact, the TMR was developed in response to a context in which, in the late 1900s, there was often a default “open” presumption on many public lands that permitted cross-country ORV use across vast areas.¹¹⁸ This default created widespread environmental impacts and conflict and confusion for motorized and non-motorized recreators alike.¹¹⁹ In contrast, a closed presumption like the framework that exists today is a conservative one that shields existing interests, protects natural resources, and preserves limited USFS resources. The USFS should not abandon the current framework that has created clarity and resource protection.

Third, it is unclear how such a presumption would work in practice. The Notice of Intent states that “the proposed action does not itself require changes to current motor vehicle use designations or prohibitions.”¹²⁰ Presumably, local USFS officials would still be required to designate those roads, trails, and areas as open to motor vehicle use. Additionally, these travel management designations must still be subject to their own NEPA analysis, the applicable Forest Plan, MUSYA, and the requirements of other applicable laws.¹²¹ It is unclear how the local USFS officials would weigh the proposed presumption against the localized impacts that they identify, the public engagement received, the multiple-use mandate, and the requirements of other applicable laws and regulations. At the very least, local USFS officials are likely to face uncertainty and pressure to open areas to motor vehicle use without adequately evaluating the local impacts of such a change, and they may be forced to defend decisions to keep roads, trails, and areas closed.¹²² Any proposed rule and draft EIS must explain how the presumption and the articulated criteria for closure—“required by applicable law, valid existing rights, or another governing instrument, or is

¹¹⁶ *Id.* at 51–53.

¹¹⁷ 70 Fed. Reg. 68271.

¹¹⁸ Adams & McCool, *supra* note 10, at 78–85.

¹¹⁹ *Id.*

¹²⁰ *See* 91 Fed. Reg. 54690.

¹²¹ 36 C.F.R. § 219.2(b)(2); 91 Fed. Reg. 54688 (“Travel planning is subject to review under the National Environmental Policy Act.”).

¹²² *See* 91 U.S.C. 54687 (proposing requiring closure to be supported by law or “specific, documented and justifiable reasons”).

supported by specific, documented and justifiable reasons based on science-based resource conditions, public safety, conflicts among uses, or maintenance and administrative capacity”—is consistent with the USFS’s MUSYA, NFMA, and other statutory duties.¹²³ To the extent that the proposed rule requires USFS officials to defend the closure of each and every road, trail, and other area, the proposed rule must explain how, given the USFS’s limited resources and personnel, such an immense burden would be effectuated practically and consistently with the USFS’s statutory duties.

Fourth, the Notice of Intent is also unclear because it lists as an *alternative* that the presumption would apply “prospectively.”¹²⁴ This appears inconsistent with the statements that suggest that the proposed revisions are themselves only prospective: they “would not [themselves] open” areas to motor vehicles and would instead “guide future decisions.”¹²⁵ This further demonstrates that the proposed revisions are inconsistent to the extent they suggest that local USFS officials would retain authority to determine which roads, trails, and areas to open to motorized travel given the presumption.

The USFS must evaluate and explain the localized impacts of the “open-unless-closed presumption” and explain how the presumption would work for local land managers in practice. Further, local travel management designations must still be subject to their own NEPA analysis and consistent with the applicable Forest Plan, NFMA, MUSYA, and other relevant laws—as all local actions on National Forest System land are.¹²⁶ The proposed rule should also retain robust public involvement provisions to ensure that local preferences and concerns regarding recreational and environmental impacts are heard and considered. Finally, the USFS must evaluate and explain how it anticipates it will have the ability to open significant numbers of new routes to motorized vehicle use and maintain such routes given resource constraints.

iii. The proposed annual review of routes that are closed or highly restricted to motor vehicle use is infeasible and inconsistent.

The proposed revisions contemplate “an annual unit-level process to identify closed or highly restricted trails, roads, airfields, trailheads, and other access routes and points that may warrant reconsideration.”¹²⁷ An annual review like this would likely result in chaos and confusion for local land managers and land users as designations may change from year-to-year. Further, the USFS has limited budget and staffing,¹²⁸ and it must explain how it plans to accomplish this annual

¹²³ *Id.*

¹²⁴ 91 Fed. Reg. 54690.

¹²⁵ *Id.*

¹²⁶ 36 C.F.R. § 219.2(b)(2); 91 Fed. Reg. 54688.

¹²⁷ 91 Fed. Reg. 54689.

¹²⁸ See, e.g., U.S. DEP’T OF AGRIC., OFF. OF INSPECTOR GEN., U.S. DEP’T OF AGRIC. STAFFING LEVELS (2025), https://www.oversight.gov/sites/default/files/documents/reports/2025-12/USDA%20Staffing%20Levels%20Final%20Report%20-%20Dec%2017_508-signed.pdf [<https://perma.cc/B8YN-S287>] (demonstrating that the USFS lost almost 6,000 employees in 2025); *President Trump’s FY2027 Forest Service Budget Request*, TAXPAYERS FOR COMMON SENSE, <https://www.taxpayer.net/energy->

review given resource constraints. If the USFS does require an annual review of roads, trails, and areas—and it should not—it should require such a review of both closed/restricted routes and those that are currently open/unrestricted for consistency. The recreational and environmental impacts of opening new routes cannot be adequately evaluated without a comprehensive review.

- iv. *The replacement of the minimization criteria with “an access-oriented framework” ignores the important purposes behind the minimization criteria.*

The current TMR directs the USFS to consider and minimize environmental and recreational impacts, which “assure[s] that environmental impacts are properly taken into account, without categorically precluding motor vehicle use.”¹²⁹ The proposed revisions would replace the minimization criteria and replace them with an “access-oriented framework.”¹³⁰ This ignores that the criteria are a crucial component of the TMR designed to allow access while also minimizing impacts to the environment. Eliminating these criteria would lead to designations that disregard the short- and long-term effects of motor vehicle use and lead to resource damage the USFS put them in place to reduce. As discussed below, the USFS must consider and explain how eliminating the minimization criteria will impact recreation and the environment in the National Forest System.¹³¹

- v. *The proposal to replace the current minimum road system requirement with “criteria for determining an adequate and appropriate forest transportation system” provides no justification for removing the requirement.*

The “minimum road system” (MRS) requirement is currently codified in the TMR at 36 C.F.R. § 212.5(b)(1). It requires that the USFS “identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System land” and in doing so, “incorporate a science-based roads analysis at the appropriate scale and, to the degree practicable, involve a broad spectrum of interested and affected citizens, other state and federal agencies, and tribal governments.”

The USFS proposes to “replace the current minimum-road-system requirement with criteria for determining an adequate and appropriate forest transportation system including access needs, resource protection, safety....”¹³² But the USFS does not explain why this is necessary, or any deficiencies in the MRS that the proposal is meant to address. On its face, the current MRS already requires that the USFS determine an adequate and appropriate forest transportation system to provide for safe and efficient travel. The proposal to replace it with undefined criteria accordingly looks to be a solution in search of a problem. To adequately explain its proposal and provide for public input, the USFS must identify and explain the need to replace the MRS, which

[natural-resources/president-trumps-fy2027-forest-service-budget-request/](https://www.natural-resources/president-trumps-fy2027-forest-service-budget-request/) [<https://perma.cc/B5T8-JXJA>] (last visited Sept. 16, 2026) (describing budget cuts in the FY2027 budget request for the USFS).

¹²⁹ 70 Fed. Reg. 68281.

¹³⁰ 91 Fed. Reg. 54688.

¹³¹ See Section V(c), *infra*.

¹³² 91 Fed. Reg. 54689.

it has not done here. In doing so, it must discuss why it promulgated the MRS in the first place and what, if anything, has changed since it did so that would support the proposed change.

- vi. *The proposed framework would lead to uncertainty, resource pressure, and arbitrarily designated motor vehicle access routes.*

The existing TMR provides a clear framework for local land managers to conduct travel planning in their National Forest unit. The proposed revisions are unclear as to how the new framework would operate but suggest that local USFS officials would be required to conduct an initial review to open more routes to motor vehicles, conduct an annual review with an eye towards opening more routes to motor vehicles, and to apply an “open-unless-closed” presumption in making these designations. The States are concerned that these provisions are likely to lead to a system of roads, trails, and areas with designations that frequently change without adequate review under NEPA, the applicable Forest Plan, and other applicable laws and regulations, leading to uncertainty for recreational users and confusion and resource pressure on USFS officials.

c. The USFS Must Conduct an In-Depth Analysis of All Reasonably Foreseeable Environmental Impacts of the Proposed Revisions and Alternatives.

Under NEPA, the USFS must conduct an in-depth analysis of all reasonably foreseeable environmental effects of the proposed revisions and a reasonable range of alternatives, with a broad enough purpose and need to encompass those alternatives.¹³³ “To be adequate, an environmental impact statement must consider every reasonable alternative.”¹³⁴ For example, reasonable alternatives should include, in addition to those already listed in the Notice of Intent: an alternative without an “open-unless-closed” presumption, alternatives that examine travel management with and without the Roadless Rule rescission, and an alternative that addresses travel management through a Forest Plan amendment or simultaneous amendments with a consolidated Record of Decision.

The USFS must consider all reasonably foreseeable environmental effects of its proposed revisions to the TMR and alternatives.¹³⁵ This includes direct, indirect, and cumulative effects that are ecological, aesthetic, historic, cultural, economic, social, or health-related in nature. As discussed above, these impacts are often site-specific.¹³⁶ The USFS must consider all reasonably foreseeable impacts including, but not limited to, diminished air quality,¹³⁷ contributions to climate change, impacts to cultural, religious, and historic sites, impacts to nearby populated locations, and effects on the following:

¹³³ 42 U.S.C. § 4332(C).

¹³⁴ *Methow Valley Citizens Council v. Reg'l Forester*, 833 F.2d 810, 815 (9th Cir. 1987), *rev'd sub nom. Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989).

¹³⁵ 42 U.S.C. § 4332(C); 7 C.F.R. § 1b.7 (h)(5).

¹³⁶ Ploughe & Fraser, *supra* note 113, at 15.

¹³⁷ See Environmental Effects of OHVs on BLM Lands, *supra* note 114, at xiii.

1. Recreation and Economy

Increasing motor vehicle activity—especially unmanaged activity—on National Forest lands is likely to have detrimental effects on other recreational users. Opening more routes to motor vehicle users will discourage individuals from engaging in non-motorized recreation on National Forest System land. “[F]or most non motorized recreationists, motorized trail use is incompatible with the experience they seek on public lands.”¹³⁸ Conflict between non-motorized and motorized recreators is also typically asymmetric.¹³⁹ For example, an ORV user is less likely to find a hiker detrimental to their recreational experience than a hiker would find an ORV.¹⁴⁰ This can lead to displacement: a non-motorized recreator may simply forgo recreation in the area altogether if they have negative experiences with motor vehicle use.¹⁴¹ Increased motor vehicle use can also affect hunters and anglers because of decreases or changes in wildlife and fish populations due to pollution, habitat fragmentation and other disruption.¹⁴² In 2024, the outdoor recreation industry accounted for \$696.7 billion of current-dollar gross domestic product.¹⁴³ While ORV use may contribute to the outdoor recreation and tourism economy, managing roads, trails, and areas such that motorized and nonmotorized uses are separated allows for both groups to recreate without conflict, which supports all facets of the outdoor recreation economy.¹⁴⁴ The proposed revisions would favor access for motor vehicle users, which would disproportionately impact non-motorized users. The USFS must evaluate, based on the best available social and scientific research, the impacts of the proposed revisions to other recreators and the revenue that they bring in, including degradation of their experiences and their displacement from certain areas altogether.

2. Soil, Vegetation, and Water Quality

Motor vehicle use on public lands leads to increased soil compaction and decreased soil permeability, thus inhibiting vegetation growth and reducing water infiltration into the soil.¹⁴⁵ Reduced vegetation results in increased invasive plant growth and reduced biodiversity.¹⁴⁶ Compacted soils, disrupted soil crusts, and reduced vegetation also leads to more runoff, moving sediments and pollutants into surface water, thereby diminishing the quality of drinking water and

¹³⁸ Adams & McCool, *supra* note 10, at 53.

¹³⁹ Environmental Effects of OHVs on BLM Lands, *supra* note 114, at 34.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.* at 38.

¹⁴³ U.S. BUREAU OF ECON. ANALYSIS, OUTDOOR RECREATION ECONOMIC STATISTICS, U.S. AND STATES, 2024 1 (2026), <https://www.bea.gov/sites/default/files/2026-03/ores0326.pdf> [<https://perma.cc/7LE5-9MUX>].

¹⁴⁴ See Kathleen L. Andereck et al., *Differences Between Motorized and Nonmotorized Trail Users*, 19 J. PARK & RECREATION ADMIN. 62 (2001) (finding that “[a]ll users preferred trails be managed for multiple uses but with motorized and nonmotorized activities separated”).

¹⁴⁵ Environmental Effects of OHVs on BLM Lands, *supra* note 114, at xii.

¹⁴⁶ *Id.* at xii; Ploughe & Fraser, *supra* note 113, at 2.

aquatic wildlife habitat.¹⁴⁷ The USFS must evaluate and explain how the proposed revisions will impact soil, vegetation, and water quality using the best available science and all available scientific literature.

3. Wildlife and Habitat

Wildlife, including native, threatened, and endangered species, is also impacted by habitat fragmentation, excessive noise, and other disruptions from motor vehicle use.¹⁴⁸ Disturbance from motorized vehicle recreation can cause physiological changes to wildlife (such as reduced body mass and increased stress response) and change wildlife's behavior (such as displacing animals from habitat and changing their movements).¹⁴⁹ For example, noise created by motorized recreational vehicles can travel for miles and has been shown to directly affect species behavior by disrupting communication, migration routes, and breeding, and by changing the habitat available to species.¹⁵⁰ Motor vehicle use can also cause direct mortality from collisions between animals and vehicles.¹⁵¹ Furthermore, motorized vehicle activity can degrade and fragment habitats, including for foxes, elk, and other mammals.¹⁵² The USFS must evaluate, using the best available science and all available scientific literature, how its proposed revisions will affect wildlife in the National Forest System, including native, endangered, and threatened species.

4. Wildfire Risk

Eighty-four percent of wildfires are started by humans,¹⁵³ and facilitating ease of access to USFS lands is likely to increase the risk of wildfires by putting humans in contact with a greater area of forest. For example, one study of cross-boundary fires (fires that move to areas of different ownerships) showed that road density increased the frequency of fires and the amount of area burned, because of "increased human-caused ignitions along road corridors that provide easy access to flammable vegetation in and around national forests."¹⁵⁴ Numerous other studies have found that road density, and human activity near roads, correlate with wildfire ignitions.¹⁵⁵ Further, the reduced native plant growth due to ORV activity can lead to more invasive vegetation that is

¹⁴⁷ *Id.* at xii–xiii; DEXTER MEADOWS, RANDY FOLTZ & NANCY GEEHAN, U.S. FOREST SERV., EFFECTS OF ALL-TERRAIN VEHICLES ON FORESTED LANDS AND GRASSLANDS iii–iv (2008), <https://research.fs.usda.gov/download/treesearch/34167.pdf> [<https://perma.cc/5SQN-LCSF>].

¹⁴⁸ Environmental Effects of OHVs on BLM Lands, *supra* note 114, at xii.

¹⁴⁹ ANNA B. MILLER ET AL., U.S. FOREST SERV., SUSTAINING WILDLIFE WITH RECREATION ON PUBLIC LANDS: A SYNTHESIS OF RESEARCH FINDINGS, MANAGEMENT PRACTICES, AND RESEARCH NEEDS 79 (2020), <https://research.fs.usda.gov/download/treesearch/61721.pdf> [<https://perma.cc/RL4P-DQW9>].

¹⁵⁰ *Id.* at 77–78.

¹⁵¹ *Id.* at 79.

¹⁵² *Id.* at 80–81; Ploughe & Fraser, *supra* note 113, at 14.

¹⁵³ Jennifer K. Balch et al., *Human-Started Wildfires Expand the Fire Niche Across the United States*, 114 PNAS 2946, 2946 (2017).

¹⁵⁴ William M. Downing et al., *Human Ignitions on Private Lands Drive USFS Cross-Boundary Wildfire Transmission and Community Impacts in the Western US*, 12 SCI. REPS. 2624 (2022).

¹⁵⁵ See, e.g., Gregory H. Aplet, Phil Hartger, & Matthew S. Dietz, *Three-Decade Record of Contiguous-U.S. National Forest Wildfires Indicates Increased Density of Ignitions Near Roads*, FIRE ECOLOGY 2026.

more susceptible to wildfire ignition.¹⁵⁶ The USFS must evaluate and explain, using the best available science and all available scientific literature, how its proposed revisions to the TMR to increase motorized vehicle activity in the National Forest System will impact wildfire risk, management, and response. Notably, the TMR currently has carveouts for motor vehicle use for fire emergencies.¹⁵⁷

5. Roads, Maintenance, and Resources

Due to limited resources, the USFS has already delayed regularly scheduled maintenance of its roads and other infrastructure.¹⁵⁸ This backlog was already estimated at over \$8.6 billion in FY2023.¹⁵⁹ Poorly maintained roads exacerbate the impacts discussed above, including by causing increased sedimentation and pollution in surface water. Allowing for increased motor vehicle use would put additional pressure on the USFS's resources because it would cause more rapid degradation of roads and other infrastructure. This should be assessed in a NEPA and cost-benefit analysis.

Increased motorized access to forested areas would likely increase unauthorized access as well;¹⁶⁰ if a road is opened to motorized vehicles it could potentially increase unauthorized access to an adjacent, non-motorized road. The USFS must evaluate and explain the recreational and environmental impacts of such unauthorized use, as well as the increased costs of enforcement and maintenance or restoration due to unauthorized access.

Additionally, as state lands frequently abut and augment federal lands, increased motor vehicle access on federal lands will necessarily affect state land managers as they plan for land access, wildlife management, and emergency response. The USFS must explain the impacts and costs to state and local land managers, as well.

d. The USFS Must Comply with the USFS Planning Framework and All Other Statutory Requirements.

The proposed revisions must comply with NFMA, MUSYA, the Wilderness Act, and the larger USFS planning framework, and the USFS must explain how its proposed rule fits within that statutory framework. For example, as the USFS acknowledges, travel management decisions

¹⁵⁶ See Environmental Effects of OHVs on BLM Lands, *supra* note 114, at xii.

¹⁵⁷ 36 C.F.R. § 212.51(a)(5).

¹⁵⁸ *Maintaining Infrastructure*, U.S. FOREST SERV., <https://www.fs.usda.gov/science-technology/infrastructure/maintaining> [<https://perma.cc/433K-6RAY>].

¹⁵⁹ *Id.*

¹⁶⁰ See MARK K. DESANTIS, CONG. RSCH. SERV., R48076 MOTORIZED RECREATION ON FEDERAL LANDS 13 (2024) (noting that “unauthorized, user-created motorized recreation trails [are] a significant concern for land managers and law enforcement”).

must be consistent with the applicable Forest Plan.¹⁶¹ And Forest Plans may only be amended or revised pursuant to the requisite NFMA processes.¹⁶²

Further, in addition to evaluating the impacts of the proposed revisions on species that are listed as threatened or endangered under the ESA, the USFS must consult with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) because the proposed revisions are likely to adversely affect numerous threatened and endangered species and their habitats across the country.¹⁶³ The ESA requires that every federal agency “insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [the designated critical] habitat of such species.”¹⁶⁴

The USFS must also work with States and tribes to evaluate, under NEPA and the National Historic Preservation Act (NHPA), the potential for impacts to historic and cultural resources from the proposed revisions to the TMR.¹⁶⁵ The NHPA directs federal agencies, including the Agency, to “take into account the effect of [an] undertaking on any historic property.”¹⁶⁶

VII. Conclusion

The USFS’s proposed revisions to the TMR would destabilize the clear, consistent framework that the TMR established for motor vehicle use that manages multiple competing recreational and other uses of the National Forest System, while minimizing impacts to the valuable natural resources across the country. By arbitrarily increasing motor vehicle access, the proposed revisions would likely harm recreational users of our National Forests and wildlife, vegetation, and clean water. The States respectfully request that the USFS consider these comments, evaluate the myriad adverse impacts that would result from the proposed revisions, and fulfill its obligations under NEPA and other applicable laws.

Respectfully Submitted,

¹⁶¹ 91 Fed. Reg. 54688.

¹⁶² 16 U.S.C. § 1604(f)(4).

¹⁶³ See *Cal. ex rel. Lockyer v. U.S. Dep’t of Agric.*, 575 F.3d 999, 1019 (9th Cir. 2009).

¹⁶⁴ 16 U.S.C. § 1536(a)(2).

¹⁶⁵ 54 U.S.C. § 306101 *et seq.*

¹⁶⁶ *Id.* § 306108.

FOR THE STATE OF NEW MEXICO
RAÚL TORREZ
ATTORNEY GENERAL

/s/ Olivia den Dulk
OLIVIA DEN DULK
Assistant Attorney General
New Mexico Department of Justice
408 Galisteo Street
Santa Fe, NM 87501
505-490-4060
OdenDulk@nmdoj.gov

FOR THE STATE OF COLORADO
PHILIP J. WEISER
ATTORNEY GENERAL

/s/ Carrie Noteboom
CARRIE NOTEBOOM
Assistant Deputy Attorney General
Natural Resources and Environment Section
1300 Broadway, 10th Floor
Denver, CO 80203
720-508-6285
Carrie.Noteboom@coag.gov

FOR THE STATE OF OREGON
DAN RAYFIELD
ATTORNEY GENERAL

/s/ Coby Howell
COBY HOWELL
Senior Assistant Attorney General
Oregon Department of Justice
100 SW Market St.
Portland, OR 97201
Telephone: 971-283-8657
Fax: 971-673-5000
Coby.Howell@doj.oregon.gov

FOR THE STATE OF CALIFORNIA
ROB BONTA
ATTORNEY GENERAL

/s/ Keith Bauerle
LAURA J. ZUCKERMAN
Supervising Deputy Attorney General
KEITH BAUERLE
Deputy Attorney General
California Department of Justice
1515 Clay St., 20th Floor
Oakland, CA 94612
510-879-3912
Keith.Bauerle@doj.ca.gov

FOR THE STATE OF WASHINGTON
NICK BROWN
ATTORNEY GENERAL

/s/ Maggie Baker Smith
MAGGIE BAKER SMITH
SARAH REYNEVELD
Assistant Attorneys General
Environmental Protection Division
800 5th Ave., Suite 2000, TB-14
Seattle, WA 98104-3188
360-582-6569
Maggie.Smith@atg.wa.gov

FOR THE STATE OF MINNESOTA
KEITH ELLISON
ATTORNEY GENERAL

/s/ Paul Dimick
PAUL A. DIMICK
Special Assistant Attorney General
Office of the Minnesota Attorney General
445 Minnesota St., Suite 600
St. Paul, MN 55101
651-300-7877
Paul.Dimick@ag.state.mn.us

FOR THE STATE OF WISCONSIN
JOSHUA L. KAUL
ATTORNEY GENERAL

/s/ Evan D. Steck
EVAN D. STECK
Assistant Attorney General
Wisconsin Department of Justice
Post Office Box 7857
Madison, WI 53707-7857
608-267-2228
Evan.Steck1@wisdoj.gov