

OUTDOOR ALLIANCE

April 21, 2026

Tracy Parker

Acting Director, Lands, Minerals, and Geology Management

U.S. Department of Agriculture, Forest Service

Sidney Yates Building, 1400 Independence Avenue SW

Washington, D.C. 20250

Submitted via: <https://www.regulations.gov/document/FS-2018-0052-0182>

Re: Comments on Forest Service Docket Number FS-2018-0052-0182, Forest Service Locatable Minerals Proposed Rule and Programmatic Environmental Impact Statement

Acting Director Parker:

On behalf of the human-powered outdoor recreation community, thank you for the opportunity to comment on the U.S. Forest Service's (USFS) proposed locatable minerals rule (hereinafter "proposed rule") and draft programmatic environmental impact statement (DEIS).

Outdoor Alliance is a coalition of nine member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

National forests contain many of America's most valued, most diverse, and most iconic outdoor recreation opportunities. Outdoor recreation is the primary way that Americans experience their national forests, and it is also a primary multiple-use guiding USFS land management. Ensuring that USFS land management activities protect, enhance, and sustain outdoor recreation opportunities on national forests—including balancing recreation access with extractive uses like hardrock



OUTDOOR ALLIANCE

mining—is both a high priority for the outdoor recreation community and a statutorily required agency responsibility under the Multiple Use Sustained Yield Act and other laws and agency regulations. In addition to protecting recreation resources, our community also has a distinct interest in supporting responsibly-sited hardrock mining for minerals needed to support an increase in clean energy to address the climate crisis.

The proposed rule represents the first significant update to the USFS’s hardrock mining regulations since 1974. In the time since the existing regulations were established, outdoor recreation has grown considerably in overall participation, diversity, and economic importance. Recent 2024 data shows that more than 181.1 million Americans participated in outdoor recreation activities,¹ and that outdoor recreation simultaneously grew as an important sector of America’s economy, generating \$1.3 trillion in economic output, supporting 5.2 million jobs, and comprising 2.4% of U.S. gross domestic product.² Outdoor recreation opportunities on national forests are a foundation for this economy. It is imperative that an updated USFS hardrock mining rule improve protections for outdoor recreation opportunities and important recreation landscapes in order to sustain this economic growth.

While the proposed rule does make improvements to mine permitting, the rule fails to adequately protect outdoor recreation and conservation values. This letter identifies our core concerns with the proposed rule, provisions in the rule that we support, and suggestions for better protecting recreation values through hardrock mine permitting. Our high-level comments include:

- The proposed rule’s requirements for pre-submittal meetings and consistency with land management plans will benefit outdoor recreation and should be maintained in a final rule;

¹ See, Outdoor Industry Association, *2025 Outdoor Participation Trends Report: Executive Summary* (2025), available at <https://oia.outdoorindustry.org/exec-summary-outdoor-participation-trends>.

² U.S. Bureau of Economic Analysis, *Outdoor Recreation Economic Statistics, U.S. and States, 2024* (2026), available at <https://www.bea.gov/news/2026/outdoor-recreation-economic-statistics-us-and-states-2024>.



OUTDOOR ALLIANCE

- The new “Operating Notice” category of operations could result in a significant increase in mining exploration that could detrimentally affect outdoor recreation opportunities;
- The proposed rule must be improved to provide public transparency for both operating notices and plans of operation and must allow for members of the public to bring resource conflicts to the agency’s attention prior to approvals;
- Plans of operations must be required for any mining operations that would cause damage to a recreation resource or close access to a recreation opportunity;
- Outdoor recreation must be explicitly integrated into the proposed rule’s surface resource protection requirements and operating standards; and
- The DEIS must be improved to address potential impacts on outdoor recreation and the recreation economy.

Our comments are described in more detail in the sections below.

Outdoor Recreation and Hardrock Mining

The outdoor recreation community and the outdoor economy are profoundly affected by hardrock mining. Improperly sited mines have the potential to irreversibly degrade outdoor recreation resources like rivers, trails, and climbing areas, as well as important cultural sites and conservation lands—often areas that our community considers irreplaceable. Recreationists are also affected by legacy mining pollution, which the EPA estimates has polluted 40% of headwaters in western U.S. watersheds.³ At least 140,000 abandoned hardrock mine features exist across federal public lands, many of which pose physical hazards to people, as well as environmental hazards that threaten public health, wildlife, and aquatic ecosystems.⁴ These impacts are especially acute on national forests, which contain a high number of quality outdoor recreation opportunities across a diverse and highly scenic system of public forest landscapes. Without proper regulation, these

³ U.S. Environmental Protection Agency, EPA-840-B-00-001, Liquid Assets 2000: America’s Water Resources at a Turning Point (2000).

⁴ Abandoned Hardrock Mines: Information on Number of Mines, Expenditures, and Factors that Limit Efforts to Address Hazards. United States Government Accountability Office. March 2020. Report to the Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, Committee on Appropriations, U.S. Senate, <https://www.gao.gov/products/gao-20-238>.



OUTDOOR ALLIANCE

mining impacts threaten the outdoor recreation experience on federal public lands and also threaten America’s outdoor recreation economy.

At the same time, our community understands that the global transition towards carbon-free electricity—a change which is vital for the future of outdoor recreation and the outdoor economy—will necessarily require an increase in mining for minerals needed to manufacture electric vehicle batteries, semiconductors, solar panels, and other applications. As mining projects move forward to support clean energy and other needs, mining policy reforms are necessary to ensure that mine siting, operations, and reclamation avoid or minimize impacts to important public lands resources, including recreation values.

Many of our community’s concerns related to hardrock mining stem directly from the 1872 Mining Law—the outdated law that still governs hardrock mining on the majority of public lands today. To address these concerns, outdoor recreationists are actively advocating for legislative reforms such as dedicated funding for abandoned mine remediation, royalties for hardrock mining, and clearer discretion for agencies to deny mining projects based on foreseeable impacts to ecological, cultural, or recreational resources. Our community’s strong preference is that updates to mining policy aimed at streamlining permitting occur in the context of broader mining reform—including updates to the 1872 Mining Law.

Despite the deficiencies in the 1872 Mining Law, the USFS plays a critical role in overseeing mine permitting, cleanup, and remediation via its own regulations and permitting process. Core to the USFS’s permitting system is the requirement that the agency approve a mining Plan of Operations (PoO) for mining activities with significant surface impacts—a process that provides some needed public transparency related to mining operations, including through National Environmental Policy Act review. USFS regulations also provide important public safeguards through operating standards and mitigation measures, as well as financial assurances for operators.

Comments on the Proposed Rule

While we appreciate certain elements of the proposed rule, we are highly concerned that the rule will lead to an increase in mining activities that negatively



OUTDOOR ALLIANCE

affect recreation access and degrade important recreation resources and conservation values. In particular, we are concerned by the lack of public transparency related to mining projects, especially those covered by operating notices.

The sections below identify our concerns related to specific provisions in the rule that would affect outdoor recreation and suggest improvements aimed at better integrating outdoor recreation into USFS hardrock mine permitting and remediation. In addition to the sections below, we have summarized our specific requested changes as a list in Appendix 1 of these comments.

Pre-Submittal Meeting

We appreciate that the proposed rule requires a meeting between an operator and an agency official early in the permitting process. This provides a needed opportunity for the agency to determine the scope of mining activities, identify possible resource concerns, and determine the appropriate level of permit for a specific activity. These meetings provide an early opportunity for the USFS to understand how a mining project might affect outdoor recreation resources. It is essential that this requirement be maintained in a final rule.

Operating Notice

The proposed rule establishes a new “operating notice” category of mining operations that would exempt certain mining activities beyond limited operations from having to prepare a PoO.⁵ While some mining activities may be appropriate for this new permitting approach, the proposed rule must be improved to increase public transparency and ensure that recreation opportunities and local recreation economies are not adversely affected by notice-level operations.

Under the proposed rule, certain operations covering less than five acres, such as prospecting, exploration, geotechnical investigations, and water resource investigations, could proceed under an operating notice and without an approved PoO. The preamble to the proposed rule makes clear that the USFS expects a large

⁵ Proposed rule at 36 C.F.R. § 228.5.



OUTDOOR ALLIANCE

number of mining projects to move forward under operating notices if the proposed rule is adopted, noting that 2,951 of the 3,171 plans of operation (93%) submitted to the USFS between 2004-2019 were for operations that disturbed less than five acres of land.⁶

We appreciate that the proposed rule precludes operators from filing multiple operating notices for related operations within a single contiguous area.⁷ However, we are concerned that, without improvements, the proposed rule would allow for the majority of individual mining operations on national forests to proceed without any visibility for the public or any protections for outdoor recreation resources such as trails, climbing areas, and boatable rivers. Currently, a determination by an agency official provides the only meaningful review for determining whether an operating notice is the correct permitting mechanism for a mining activity.

To alleviate these concerns, we ask that proposed rule be improved in the following ways:

First, the USFS must provide public notice regarding all proposed mining activities outside of limited operations, including notice-level operations, upon receipt of an operating notice or PoO and prior to agency approval. This should include both the geographic location and the types of activities proposed. This will provide stakeholders a critical opportunity to identify potential conflicts between mining activities and important resources, ultimately reducing controversy related to mining operations on national forests. This will also reduce, or ideally eliminate, the likelihood that stakeholders including recreationists become aware of destructive mining activities after they have already occurred, and when the opportunity to avoid impacts to significant public lands resources has passed. In addition to public visibility for projects proposed under an operating notice, the final rule should allow for stakeholders and tribes to bring information regarding resource concerns to the USFS and request that a PoO be required.

Second, the USFS must require a PoO for all mining operations that would affect a recreation resource, including through temporary or permanent loss of access, or through physical damage from mining activities. Recreation resources include both

⁶ 91 Fed. Reg. 8316, 8317 (Feb. 20, 2026).

⁷ Proposed rule at 36 C.F.R. § 228.4(d)(3).



OUTDOOR ALLIANCE

natural and built infrastructure that facilitate access for recreation activities, including but not limited to: trails, trailheads, climbing sites, river put-ins, backcountry ski terrain, boatable rivers, campsites, access points, and viewsheds. The final rule should clearly define “recreation resource” and establish a process by which USFS officials can evaluate the overlap and expected impacts of mining operations on these resources.

The USFS is currently in the process of inventorying recreation opportunities on national forests, as required by Section 112 of the Expanding Public Lands Outdoor Recreation Experiences (EXPLORE) Act. When complete, this inventory may serve as a useful filter for understanding how proposed mining operations might affect outdoor recreation. In the interim, the USFS already maintains an incomplete dataset encompassing outdoor recreation that will serve as a coarse filter for evaluating the impacts of mining on outdoor recreation. Evaluating mining proposals using this existing dataset, in combination with an opportunity for members of the public to provide input, will reduce or prevent impacts to recreation resources during hardrock mine permitting.

Plan of Operations

We recommend that the final rule be improved to better integrate outdoor recreation into the PoO approval process. As mentioned above, the final rule must clearly establish that a PoO is required for all mining activities that would degrade or restrict access to an outdoor recreation opportunity. In addition to this recreation criteria and the requirements already listed at § 228.4(c), we ask that a PoO be required for all operations occurring within:

- Lands identified as suitable or recommended for inclusion in the National Wilderness Preservation System during land management planning;
- Areas protected through designations such as Backcountry Management Areas in USFS land and resource management plans;
- Old growth forests;
- Inventoried roadless areas; and
- Municipal watersheds;



OUTDOOR ALLIANCE

Additionally, § 228.6(a)(5) must be improved to require that a PoO identify outdoor recreation opportunities and infrastructure directly within or within the vicinity of mining operations. This section should also include information regarding any recreational access closures resulting from a project, their estimated duration, and steps that an operator will take to minimize recreational access closures to the maximum extent possible.

Finally, the final rule must require that the USFS post the PoO and all supporting information online in a single standardized, publicly-accessible location. This will allow stakeholders a necessary opportunity to understand the location and type of proposed mining activities and identify possible resource concerns prior to approval.

Valid Mining Claim Required for Operations and Reasonably Incident Uses

The final rule must clarify that proof of a valuable mineral deposit is required for both mining operations and reasonably incident uses to occur. The proposed rule includes definitions of operations and reasonably incident uses at § 228.3, as well as a list of activities not considered reasonably incident to mining at §228.9. The 1872 Mining Law does not confer a right to use and occupy a mining claim absent proof of a valuable mineral deposit.⁸ The final rule must be clear that a valid claim is required for both operations and reasonably incident uses to occur.

Surface Resource Protection Requirements

The proposed rule includes a list of surface resource protection requirements and operating standards at §228.10. We appreciate that this section explicitly requires consistency with USFS land management plans and that the proposed rule includes some limited protections for scenic values. However, both the surface resource protection requirements and operating standards need to be strengthened in order to avoid unnecessary degradation of public lands values, including outdoor recreation.

⁸ *Center for Biological Diversity v. U.S. Fish and Wildlife Service*, 33 F.4th 1202 (9th Cir. 2022).



OUTDOOR ALLIANCE

Specifically, the rule is overly permissive towards the economic considerations of the operator and repeatedly applies a lenient “to the maximum extent practicable” standard to requirements intended to minimize the impacts to public lands resources. For example, as a general requirement, § 228.10(a)(2) states that:

“The operator shall conduct all operations in such a manner as to minimize, to the fullest extent practicable, adverse impacts on surface resources. The authorized officer shall consider the economics of the operations when determining the reasonableness of the requirements for surface resource protection.”

This general requirement seems to provide the agency with authority to waive surface resource protection requirements based on a vague determination about the economics of the operations, essentially rendering the resource protection requirements meaningless. The agency is directed by multiple statutes, including the Multiple-Use Sustained Yield Act and the National Forest Management Act, to protect multiple use values, including recreation, and no authority grants the agency discretion to condition those responsibilities on the economic considerations of outside private entities operating on public lands. To create such an authority on the agency's own volition is arbitrary and capricious. As such, we ask that the qualifier “to the maximum extent practicable” and the language emphasizing economic considerations both be removed from § 228.10(a)(2). The final rule should also make clear that the agency must also consider resource protection needs when determining the reasonableness of surface resource protection requirements, rather than solely focusing on the economic considerations of the operator.

Similarly, the surface resource protection requirements for scenic values at § 228.10(b)(6) provide that the operator “shall take measures to maintain, to the fullest extent practicable, the scenic values of NFS lands.” We recommend that this requirement be strengthened to require that operators “shall maintain the scenic values of NFS lands.”

The proposed rule includes especially weak language addressing tribal reserved rights and treaty rights, stating that “*where possible*, the operator shall ensure that operations do not cause a violation of a Tribe's reserved rights under a treaty or



OUTDOOR ALLIANCE

other Federal law.” The federal government has a legal obligation to protect tribal reserved treaty rights, whereas the proposed rule’s “where possible” language implies that protecting these rights is optional. The final rule should be improved to clearly mandate that operations do not violate a Tribe’s reserved rights under a treaty or other federal law.

Additionally, we ask that the USFS add an additional surface resource protection requirement to the list at § 228.10(b) aimed at preventing degradation of recreation resources and eliminating or minimizing access closures in line with the suggested language below:

Outdoor recreation resources and access. The operator shall minimize, and seek to avoid, degradation of recreation infrastructure including trails, trailheads, access roads, river accesses, climbing areas, and boatable waterways, and shall minimize access closures to the maximum extent feasible considering public safety and resource protection.

This language is needed to reduce unnecessary mining impacts on recreation resources and prevent unnecessary disruptions to access from mining operations.

Operating Standards

We appreciate many of the operating standards included in the proposed rule, including the requirement that operators prioritize source-level water pollution controls over water treatment, and the requirement that operators use existing roads whenever economically and technically feasible. In addition to the existing standards, we ask that the final rule include an explicit requirement that operators restore recreation access and any recreation infrastructure affected by operations and include this information in the reclamation plan required at § 228.10(c)(9)(ii). This should include specific requirements that trails be reconstructed to meet agency standards, that access roads be repaired, that campsites (included dispersed sites) be restored, and that any environmental pollution, such as water quality degradation, affecting the quality of an outdoor recreation opportunity be addressed and mitigated so that mining does not cause long term degradation of outdoor recreation opportunities.



OUTDOOR ALLIANCE

Comments on the Programmatic DEIS

Outdoor Alliance appreciates the DEIS’s specific consideration of how the proposed rule might affect sustainable recreation and important recreation landscapes like Wild & Scenic Rivers. However, we are concerned that the DEIS overly relies on pre-submittal meetings and existing land management plans for mitigating impacts to sustainable recreation, does not account for the full economic benefits of the outdoor recreation economy, and does not adequately consider the potential impacts of an increase in exploration activities occurring under operating notices.

Pre-submittal meetings and land management plans.

In its discussion of the environmental consequences for sustainable recreation, the DEIS repeatedly cites the requirement that mining operations comply with local land management plans as an adequate protection for outdoor recreation values. While we appreciate that the proposal rule requires consistency with land management plans, these plans alone are not sufficient for protecting recreation opportunities from mining. Many land management plans are decades old and do not reflect the amount or diversity of recreational use occurring on a particular national forest today. As discussed above in our comments on the proposed rule, the USFS should evaluate the potential impacts of mining operations—including those permitted under both operating notices and PoOs—using the current best available information regarding recreation opportunities on national forests, including (but not limited to) information in land management plans.

Similarly, the DEIS correctly identifies pre-submittal meetings as an opportunity for agency officials to identify potential recreation conflicts, stating that “in this meeting, operators and the Forest Service can discuss applicable components in the land management plan, reclamation requirements, and other measures to reduce adverse impacts on sustainable recreation.”⁹ While this pre-submittal meeting is important, agency officials are not always fully aware of the location and extent of recreation activities occurring on national forests. As we discuss in our

⁹ DEIS at page 3-60.



OUTDOOR ALLIANCE

comments on the proposed rule, adding a public notice requirement for all operating notices and PoO would allow for members of the public to bring potential recreation conflicts to the agency's attention—adding an important level of review to the agency's evaluation in a pre-submittal meeting.

Increase in exploration

The DEIS briefly acknowledges that the proposed rule could result in an increase in mining exploration on national forests; however, it does not fully consider the extent of potential impacts on sustainable recreation, nor does it acknowledge the loss of public visibility for mining operations covered under operating notices. Mining exploration involves a wide range of activities that can affect sustainable recreation and scenic values. Without improvements to the proposed rule to increase public transparency and ensure that exploration does not overlap with significant recreation resources, the proposed rule leaves open the possibility that on-the-ground exploration activities will commence before recreationists are aware that an operating notice has been approved. The Final EIS should include a thorough discussion of the potential impacts of an increase in exploration on sustainable recreation and scenic values and should analyze the effects on social sustainability that stem from a loss of public participation opportunities due to operating notices.

Outdoor recreation economy

The DEIS mentions local level impacts to tourism and outfitting and guiding from increased mining occurring under notice level operations. The DEIS should be improved to include a broader discussion of the effects of the proposed rule on the outdoor recreation economy, including effects on water-based recreation from any expected water quality degradation, effects from a potential increase in access closures due to exploration activities, and any projected local effects from specific forests where an increase in mining exploration is likely.

* * *

Thank you for considering our community's input, and thank you for your work to modernize USFS hardrock mining policy. We offer our collaboration and support



OUTDOOR ALLIANCE

towards ensuring that responsible mining can occur without harming important recreational values on national forests.

Best regards,



Jamie Ervin
Senior Policy Manager
Outdoor Alliance

cc: Louis Geltman, V.P. for Policy and Government Relations, Outdoor Alliance

Adam Cramer, Chief Executive Officer, Outdoor Alliance
Heather Thorne, Executive Director, Access Fund
Beth Spilman, Executive Director, American Canoe Association
Clinton Begley, Executive Director, American Whitewater
Kent McNeill, CEO, International Mountain Bicycling Association
David Page, Executive Director, Winter Wildlands Alliance
Tom Vogl, Chief Executive Officer, The Mountaineers
Ben Gabriel, Executive Director, American Alpine Club
Madeline Bachner Lane, Chief Executive Officer, Colorado Mountain Club
Chad Nelsen, Chief Executive Officer, Surfrider Foundation



OUTDOOR ALLIANCE

Appendix 1: Summary of Outdoor Alliance Requested Changes to the Proposed Rule

We have summarized our requested changes to the Proposed Rule in the bullets below. The justifications and details for these requests are described in detail in our comments at the page numbers noted in parentheses following each request.

1. Provide public notice regarding all proposed mining activities outside of limited operations (both operating notices and PoOs) upon receipt of an operating notice or PoO and prior to agency approval (Pages 6 and 8).
2. Require a PoO for all mining operations that would affect a recreation resource, including through temporary or permanent loss of access, or through physical damage from mining activities (Page 6-7).
3. Expand the list of criteria and the requirements proposed at § 228.4(c) to require PoOs for mining operations on important recreation lands (Page 7).
4. Require that PoOs identify recreation opportunities and infrastructure, as well as potential recreational access closures (Pages 7-8).
5. Clarify that proof of a valuable mineral deposit is required for both mining operations and reasonably incident uses to occur (Page 8).
6. Improve the proposed general requirement at § 228.10(a)(2) by removing the phrase “to the maximum extent practicable,” as well as the language prioritizing the economic concerns of operators (Page 9).
7. More clearly require that operators maintain the scenic values of national forests (Page 9).
8. Mandate that operations do not violate a Tribe’s reserved rights under a treaty or other federal law (Pages 9-10).



OUTDOOR ALLIANCE

9. Add an additional surface resource protection requirement to the list at § 228.10(b) aimed at preventing degradation of recreation resources and eliminating or minimizing access closures (Page 10)

10. Include an explicit requirement that operators restore recreation access and any recreation infrastructure affected by operations and include this information in the reclamation plan required at § 228.10(c)(9)(ii) (Page 10).

