Thursday,
December 14, 2000

Part III

Department of the Interior

Bureau of Land Management

43 CFR Parts 6360 and 8560
Wilderness Management; Final Rule
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
42 CFR Parts 6300 and 6560
[90-250-126P-PA-24-1A]
RIN: 1004-AE95
Wilderness Management
AGENCY: Bureau of Land Management, Interior.
ACTION: Final rule.
SUMMARY: In this final rule, the Bureau of Land Management (BLM) revises and updates the regulations for management of designated wilderness areas. In February of 1998, BLM issued the existing regulations. Since the original issuance of the regulations, BLM has developed new policies, Congress has required new procedures, and technologies have changed. The final rule makes the need for updated regulations by adding new requirements based on changes in legislation or agency objectives, clarifying what uses LM allows and authorizes in wilderness areas, what acts BLM prohibits, and explaining special uses. The Wilderness Act explicitly allows, and how BLM allows access to non-Federal lands located within BLM wilderness areas.
ADDRESSES: You should send any inquiries or comments to:
Department of the Interior, Bureau of Land Management, Mail Stop WC-172, 2448 C St., NW, Room 9463, Washington, DC 20240.
FOR FURTHER INFORMATION CONTACT: Jeff Davis, Wilderness, Rivers and National Trails, 202-208-4493. Please use a telecommunications device for the deaf (TDD) for assistance. Call the Federal Information Relay Service (FIRS) at 1-800-828-1124, 24 hours a day, 7 days a week.
SUPPLEMENTARY INFORMATION: I. Background II. Responses to Comment III. Final Rule as Proposed IV. Procedural Matter.
I. Background
The Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 170-179o) and the Wilderness Act (43 U.S.C. 1333-1340) direct BLM to manage wilderness areas for the public use and enjoyment in a manner that will serve those areas specified for future use and enjoyment as wilderness by providing for:
I. Protection of these areas;
II. Preservation of their wilderness character; and
III. The gathering-and disseminating of information about their use and enjoyment as wilderness.
Unless Congress makes a different determination, BLM must ensure that the preservation of wilderness character in managing activities is not compromised, and otherwise manage activities and land uses affecting wilderness.
The proposed rule on Wilderness Management was published in the Federal Register on December 16, 1998, 63 FR 65661. The proposed rule on the management of BLM wilderness areas outside Alaska (63 FR 63709) was also published. The rule explained:
1. What wilderness areas are;
2. How BLM manages them;
3. How you can use them.
The proposed rule also explained what activities BLM would not allow in wilderness areas, the penalties for violating restrictions, and special provisions for some uses and access. When BLM has management responsibility for wilderness areas in Alaska, we will develop regulations for their management, if necessary.
The proposed rule, while revised, revised and redesignated the entire part in the CFR, focuses on the following five areas: (1) definitions, (2) use of wilderness areas, (3) prohibited acts, (4) special use provisions, and (5) access.
1. The period for public comment on the proposed rule expired on February 18, 1998. In response to public comments, BLM extended the comment period until April 21, 1998. BLM received nearly 3,000 public comments letters or other communications during this four-month comment period.
II. Responses to Comments
A. General Comments
A number of comments addressed the proposed rule in general terms, without addressing any specific provision in this section. Some opposed or supported the rule, others asked for additional clarifications, or others questioned underlying authorities. We will address these general comments in this section of the Supplementary Information.
One respondent asked BLM to clarify authority over activities on non-BLM lands adjacent to BLM wilderness areas. BLM has authority to protect Federal lands and resources under jurisdiction by virtue of section 302(b) of FLPMA (16 U.S.C. 1752(b)). This includes the authority to regulate activities on adjacent private lands to protect public lands, including BLM wilderness areas. The final rule does not expand BLM’s authority; it gives BLM authority to manage wilderness areas in a way that will affect activities on adjacent non-BLM lands.
Several respondents criticized the proposed rule for not specifying additional enough the responsibility of BLM wilderness managers to monitor and otherwise manage activities and land uses affecting wilderness. Management of activities within wilderness areas are thoroughly covered in BLM Manual handbooks and other internal guidance, which are available to the public in any BLM office that manages wilderness. The regulations need not explain these internal procedures to BLM managers. The principal purpose of regulations is to provide guidance and direction to the public and other regulated parties.
One comment asked for clarification of how the rule applies to wilderness study areas. The regulations in this rule apply only to congressionally designated wilderness areas, not wilderness study areas.
One comment asked what regulations apply when specific provisions in this rule refer to applicable Management plans as existing, limiting, or prohibiting activities, but BLM has not completed its management plans for a particular area. The regulations in this final rule apply regardless of the status of plans. The plans referenced in these regulations include, but are not limited to Resource Management Plans or Project Amendments or restoration plans or related documents.
Some comments asserted that the proposed regulations were too permissive or conflict with, including the Wilderness Act. They were concerned that the regulations were incompatible with the preservation of wilderness character.
BLM believes that the proposed rule and the final rule are fully consistent with the requirements of the Wilderness Act and other laws. The Wilderness Act specifically provides for limited commercial use and resource development in wilderness areas in the special provision of the Act (16 U.S.C. 1335). A certain amount of discretion is the part of local BLM managers is necessary because circumstances vary from area to area, and to national regulation cannot cover every situation. BLM has made every effort to ensure that these regulations will ensure preservation of
the wilderness character of the subject lands while recognizing the specific statutory protections for valid existing rights and the specialized uses.

Other comments ranged, by topic, that the regulations are too restrictive, oppressive, or heavy-handed, that they have adverse effects on the rights of private landowners, or that they are unduly restrictive. The committee stated that such comments reflect the lack of employment of management, climate, or other economically acceptable uses, generate too much paperwork, and are often complex or unresponsive to public need. Some comments suggested that the proposed rule gives BLM too much flexibility and reduces individual rights.

BLM does not agree with these assertions of the proposed rule. The regulations are not so restrictive that necessary to survive the requirements in the Wilderness Act and FLPMA, including:

- Providing for the protection and the conservation of wilderness character and values.
- Providing for the gathering and dissemination of information regarding wilderness use and enjoyment.
- Establishing a system by which the proposed rule did not consider the specific provisions of the Desert Protection Act, 1994 (16 U.S.C. 3181 et al). The special provisions of such Act apply only to those BLM-managed areas designated as wilderness in the Wilderness Act (16 U.S.C. 3181).
- It would be inappropriate for a regulation with nationwide effect to implement these special provisions. The special provisions of the Act contain 13 sections and do not need regulations to make them effective. Any aspect of these provisions that is inconsistent with the special provisions of the California Desert Protection Act, that Act would prevail over these regulations to the extent of the inconsistency.

The committee further argued that the National Environmental Policy Act of 1969 (NEPA) analysis of the proposed regulations be done. BLM prepared an environmental assessment (EA) and found that the regulation cause no significant impact (FONSI).

Our conclusion, therefore, is the preamble of the proposed rule that the EA is still in draft form, BLM approved the EA and FONSI on September 1, 1998. Also, BLM has updated three documents in these revised proposal approved June 19, 2000. These documents are available for review in the administrative record of this rule.

Our conclusion stated that BLM has no authority to change or abolish the Federal laws and that Federal laws must conform to State and local laws. BLM has ample authority to issue these regulations (see sections 310 and 301) of FLPMA, 43 U.S.C. 1741 and 170b, for example, federal law prevails over inconsistent State laws. The Constitution of the United States provides at Article VI that the Constitution and laws enacted under it are the supreme law of the land.

Some comments maintained that the proposed rule unreasonably restricts wildlife management activities in public enjoyment of wildlife. Others stated that the rule does not address 508 and wildlife management activities or hunting or recognize State management authority for fish and wildlife resources is contained in Sections 4(f) and 4(g) of the Wildlife Act (16 U.S.C. 3171, 3173). In the rule, BLM does not alter the existing rules in Federal and State management of wildlife on public lands, including wilderness, an action 4681(A) of the Wilderness Act provides.

Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the States wherein, respect to wildlife and fish.... States will continue to have jurisdiction over fish and wildlife resources. Comments stated that BLM's present and proposed regulations are not abrogation, traditional land rights, and uniform. The rule should require BLM to work with State agencies on management of supervised vehicle use, moose, elk, and other wildlife resources. As stated earlier, this regulation may not be consistent with Federal and State agencies on management of archaeological sites under other laws and regulations. A number of comments (as expressed) support the proposed rule, stating that the regulations are necessary to protect the character of wilderness for the long term, and that they are balanced and reasonable, well-drafted, and faithfully implemented Congressional wilderness goals.

Several comments addressed the title of the proposed rule, that it is too narrow, and that the title should be broader is the California Congressional Wilderness Goal.

Our conclusion is that the final rule has been prepared and adopted from the draft rule. We do not change the basic format in the final rule because the style follows current Federal Government policy. The final rule is not more rigorous and recommends the regulations.

We explain this in detail in the section above in the preamble discussing the final rule.

B Specific Comments

In this document, section names and numbers refer to those in the proposed rule. Where appropriate, we have revised some section numbers to reflect changes in the beginning of each section discussion, in the final rule. Many comments have been altered to improve the treatment of the regulations and to respond to public comments. We will explain in this section how and where commenting in Section 13 of this preamble, if this portion of the Supplementation Information does not discuss a particular section or paragraph, it means that no public comments addressed the provision, and there is no further need to amend it in the final rule.

Pretable of the Proposed Rule

Regarding the discussion of livestock grazing, one comment questioned the reference to an appendix of a Report of the Committee of Interior and Indian Affairs (Omr 104-34, Appendix A) regarding grazing in wilderness and urged that the Report be published in the Federal Register. The proposed rule used the principles and findings in the Report as the basis for the livestock grazing section of the rule. The Report itself is in the administrative record for the rule and is published in the BLM Wilderness management regulations.

Our comments suggested that either the BLM published the comments in the proposed rule should refer to the following:


(1) neither the proposed or the final rule show a lack of information needed for wilderness management, such as Federal and State regulations and management goals; and

(2) guidance for BLM field officials for cooperating with State wildlife management officials, including a reference to the document in question, is in the BLM Manual.

Subject 6021—Introduction

Section 6021.1 What is BLM wilderness area? (Section 6021.2 in the final rule)

One comment objected to this section as a subjective definition of wilderness. BLM intends this section to be an objective, factual, and
unfortunately, a statement that wilderness is what Congress says it is with a reference to the Wilderness Act. I seek a detailed definition.

Section 6.301.50 What are the definitions of terms used in this part? (Section 6.301.5)

A few comments addressed the proposed definitions as a group. One suggested that they were vague until they were defined. BLM's position is that definitions are similar to those of the other Federal wildlife-managing agencies. A second definition is that they were too small to eliminate terms in a sense of regulations with a nationwide effect. Nevertheless, in some instances we have changed the definitions to make them clearer in light of specific comments.

Other comments suggested that we define additional terms, including: Permanent natural condition, uncultivated, excluded, wilderness character, commercial use, and wilderness preserve. The reference is to Congress's definition in the context to make a definition unnecessary. Other comments are familiar enough that their dictionary definitions provide adequate description of their meaning.

Access

Several comments criticized the definition of "access," stating that it did not mean what conditions are adequate access. Other states asked that access should include R.S. 47.2 rights-of-way and appropriate means of travel, allowing legal access under Section 501 of FLPMA.

Section 501 of FLPMA expressly excludes designated wilderness from lands under BLM. Section 6.301.50 of FLMMA expressly prohibits designating wilderness on lands which BLM may grant a right-of-way. Therefore, BLM is forbidden by law to grant any rights-of-

way except wilderness. BLM recognizes that a right-of-way in wilderness areas, as it does all valid existing rights-of-way.

Finally, the regulatory provisions on access in the final rule (Shoup 6385) are designed to provide access with logical and appropriate access within the limitations of the Wilderness Act. Definitions themselves are not intended to have regulatory content.
is allowed only as necessary medical equipment. BLM has amended the definition in the final rule to remove this qualification. The final rule specifically allows wheelchairs to be used in wildlife areas, except for the definition of "wheelchair" in the proposed rule. BLM has also added a section discussing "mechanical transport," including reference to the use of power scooters, and made a specific reference to the Vegetative Management Act. BLM also discussed the definition of "mechanical transport," including the definition of "mechanized equipment," and added an exception for "vessels of opportunity." A couple of comments addressed the definition of "mechanized equipment," including a question about whether the definition includes "mechanized equipment" and another about whether it would include vehicles such as scooters. BLM responded that the definition includes vehicles of this type, but not power-driven devices such as scooters. BLM also responded to a comment about the definition of "mechanized equipment" and added a definition for "mechanized equipment." BLM also provided a cross-reference to the definition of "mechanized equipment" in the final rule.

Mining Operations and Valid Occupancy

A few comments addressed the definition of "valid occupancy." BLM has added a definition for "valid occupancy" in the final rule. BLM also addressed the definition of "mechanized equipment," including a question about whether the definition includes "mechanized equipment" and another about whether it would include vehicles such as scooters. BLM responded that the definition includes vehicles of this type, but not power-driven devices such as scooters. BLM also responded to a comment about the definition of "mechanized equipment" and added a definition for "mechanized equipment." BLM also provided a cross-reference to the definition of "mechanized equipment" in the final rule.

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Section 602.41. WILL BLM authorize someone to use a motor vehicle, motorized equipment, or mechanized transport to conduct research or gather resource information? (Section 602.41)

About 20 comments addressed this section. Respondents criticized the provision, stating that it implied motor vehicles would be allowed in wilderness, that it could be interpreted to preclude scientific research over wilderness, and that it did not necessarily require a bond in every case. Another comment stated that the provision should clarify prohibited motorized equipment and mechanical transport, for instance, to prevent the intrusion of whitewater enthusiasts. Another comment stated that such provisions are unnecessary because it is feasible to use a motor vehicle in an emergency to access wilderness.

Section 602.49. May wilderness areas be used for traditional religious purposes? (Section 602.49)

A number of comments addressed this section, some of which focused on the issue of temporary closure to protect privacy of American Indian newmooners, and others focusing on whether to extend the regulations. The respondents stated that many respondents support the inclusion of wilderness areas in the regulations.

Section 602.60. Any wheeled vehicle be used in a wilderness area? (Section 602.60)

A few comments addressed this section. Respondents supported the notion, with which we agree, that adventure and uncontrolled resource areas should be available to the wilderness user. Another commenter concerned that it does not state the spirit of the Americans with Disabilities Act (ADA) because it does not provide for additional facilities for wheeled users. The respondent with disagreement with this comment. Special facilities are not required for wheeled users in wilderness under Section 602.60 of the ADA (20 U.S.C. 12132(b)).
management authority in Senate and of YLPHA, the BL&M local land manager can temporarily close an area to protect or accommodate this or any other use in appropriate circumstances. The final rule allows American Indians to use wilderness areas for traditional religious purposes, implementing the Indian Religious Freedom Act of 1986, and ARPA, under another application law, it does not specifically apply to hunting. However, it recognizes the issues provided by the Wilderness Act so that Indians using wilderness areas for traditional religious purposes may use supported equipment or mechanical transportation, and must be in such a way as to minimize impact upon the wilderness environment. Comments suggested that the rule should specifically allow mechanical transport for Indian access; however, there is no authority in the Wilderness Act or ARPA to allow this use. One comment suggested that BL&M reissue the text and evidence of this religious activity to that of such activities carried before designating the wilderness. There is also no authority to restrict the manner and degree of such Indian religious activity as long as it otherwise complies with the Wilderness Act and their regulations. One comment stated that the regulations should include the provisions from Executive Order No. 10000 for access, ceremonial use, protection, and consideration of sacred sites, and the project management section potentially affecting those sites. The Executive Order is binding on Federal agencies, and as provisions need not be repaired in wilderness, it was rejected. One comment urged that the regulations should ensure physical access into wilderness for Native Americans for ceremonial, medicinal, cultural, and religious purposes. We also are collecting of materials in wilderness areas in Section 660.15 of the final rule. Native Americans wishing to collect materials for these purposes must do so in a manner compatible with the preservation of the wilderness environment, and the collection must conform with the applicable management plan as separately authorized by BL&M. One comment stated that the term “American Indians” should be replaced by “recognized member of a federally recognized tribe.” The comment is not adopted in the final rule—the term used in the rule are those used in ARPA.

Section 660.22: What activities does BL&M prohibit in wilderness areas?


Our discussion of the comments on this section will address each paragraph separately. As did most of the comments, but first, a few comments address the section as a whole. One comment asked for clarification as to the applicability of the rule to individuals as opposed to State agencies. The rule does not distinguish between States and individuals. For example, State agencies may not use supported equipment or mechanical transportation, and must be in such a way as to minimize impact upon the wilderness environment. Another comment emphasized that the treatment in the proposed rule of the Wilderness Act prohibitions was inadequate. We disagree with this interpretation. Section 660.22 of the Wilderness Act is thoroughly covered in this section, along with others that implement the general authority of BL&M to regulate public lands, including wilderness. One comment suggested that persons wishing to carry on activities that are exceptions to prohibitions should be encouraged to the regulations to use non-wilderness lands, or their activities should be narrowly delineated. This comment appears to be directed more to the special provisions of the Act that were covered in subpart D (660.30) of the proposed rule. Section 4(c) of the Wilderness Act provides for strictly limited exceptions to wilderness prohibitions. BL&M does not believe subpart D of this final rule properly implements this statutory provision. Some comments suggest that the prohibitions act section 4(a), stating that the restrictions imposed appear inconsistent with the purpose and preservation of wilderness areas that are quick, pristine, and unspoiled. One comment urged that we remove the language in the introductory text giving BL&M discretion to enforce these prohibitions in lieu of strict prohibitions. BL&M made this change in the final rule. A small number of comments addressed the issue of 406 closures, a matter that is not covered in the proposed or final rule. Subject to valid existing rights and special provisions in individual instances designating wilderness areas, wilderness designations closing jeep trails and similar routes on public lands, but the wilderness regulations themselves do not close any roads. Wilderness designation or these regulations do not affect roads that are outside wilderness, even those adjacent to wilderness boundaries. If there are routes to wildland water developments within wilderness, they are closed to recreational travel, except for administrative use. The Wilderness Act Section 660.15 of the Wilderness Act provides for existing rights that need not be acquired in fee at State, national, or private rights.

Paragraph 660.22: This paragraph prohibits operating a commercial enterprise in BL&M wilderness. A small number of comments addressed this provision. A few urged that BL&M prohibit non-hunting, fishing, and recreational use. These activities are not prohibited. The rule excepts from the prohibition those activities specifically provided for in the Wilderness Act. Section 660.15 of the Act allows commercial services to the recreational or other wilderness purposes of the particular area. One comment stated whether the use of helicopters for wilderness management activities is a commercial activity. Whether such use is helicopters is commercial or not is irrelevant, because BL&M claims no authority in this final rule to regulate activity in airspace. Section 660.15 of the Wilderness Act, however, specifically prohibits the activity described in this rule to apply to emergency landing of aircraft.

Paragraph 660.23: This paragraph prohibits landing strip in helicopter landing facilities. A few comments addressed the provision object to it. BL&M has made no change in the final rule.

Paragraph 660.24: This paragraph prohibits the use of motorized equipment. Several comments addressed this prohibition, different respondents commented differently. One objecting to any motorized equipment. A few comments urged that State wildlife management activities, predator control, fire suppression, emergency, trail work, delivery of construction materials when delivery is not feasible without the mechanical transportation, all require use of mechanized vehicles, motorized equipment, air, and low-level flights, and that they use mechanical vehicles, motorized equipment, and low-level flights. In response, BL&M does not object to emergency overflights of public land in this rule. The other mechanized uses urged in these
conferences are prohibited by Section 46C of the
Wilderness Act, except in the
event of emergencies involving the
health and safety of persons within the
area.

Section 623.3 of this final rule
touches administrative use and
emergency situations.

The preamble discussion of that
section addresses the means of
allowing or prohibiting use of
mechanical transportation and
mechanized equipment for
administrative purposes.

Paragraph (e) of this paragraph
prohibits landing aircraft, the
dropoff and picking up of persons
or things by aircraft. A few comments
addressed this provision, none it
opposition and none in support. One
and that the regulations should never
allow the use of landing of aircraft
unless specifically authorized by
Congress for particular wilderness
areas. One comment said that the
regulations should not restrict the use of aircraft
for the administrative use listed in the
dissemination of paragraph 4b, above, and
another urged an exception for search of
wilderness areas.

Again, BLM does not assert any
apparatus authority over airplanes.
The regulations do allow the landing of aircraft for administrative purposes, and
allow BLM to prescribe conditions in
which aircraft, as well as other modes of
transportation, may be used in
emergency situations.

Paragraph (f) of this paragraph
prohibits structures and installations in
BLM wilderness. A few comments
addressed increased use as possible reasons
that it did not go far enough and should also specifically prohibit permanent
clearcuts, cut lines, fencing, spring
saddles, and water catchments, unless they are to
benefit wilderness. The comment also
suggested the addition of "burial lines" to the list of examples of prohibited structures.
Another comment asked that we make our prohibition of structures consistent with that of the
U.S. Forest Service. We have added "burial lines" and "saddles" to the prohibition, as part to be consistent with the
policy of the Forest Service, and also in response to the comments. Finally, 
"the comment asked that the regulations a prohibitory provision and leave minor
regime. This was not the intent of the
proposed rule in prohibiting structural, and
installed that trail signs are allowed in
BLM-managed wilderness.

Paragraph (g) of this paragraph
prohibits cutting trees in BLM
wilderness area. A few comments
addressed this prohibition. One
questioned whether the prohibition
conflicted with section 623.4(b) of the
proposed rule, which specifically
allowed the gathering of firewood in
responsible quantities for campfires. This
provision is found in section
623.4(b) of the final rule. BLM
intends a distinction between gathering firewood and cutting trees. The
prohibition of the cutting was not intended to
do firewood and leaves branches in
responsible quantities for use as
firewood. See comment stated that the
regulations should include an exception
for cutting trees to improve habitat
provision for an applicable BLM
management plan under BLM
authorization. As a matter of policy,
BLM does not permit this kind of
habitats management in the wilderness
management plans.

Paragraph (h) of this paragraph
prohibits competitive events in
wilderness areas. A few comments
addressed this section. Some agreed
with the notion that the prohibition of
competitive use is keeping with the
spirit of the Wilderness Act. Some
maintained that some competitive events, such as Eco-Challenge, do not permanently
harms the character of wilderness land or reduce the opportunity for solitude, and argued
that the prohibition of such events is not consistent
with the special principles section of the Wilderness Act and these regulations. One
commented on the need for the prohibitions to
BLM management plans.

As a matter of policy, to carry out our responsibility to protect the wilderness
character of the lands under the
Wilderness Act and FLPMA, BLM does not allow competitive events such as
tests and exploratory caving in wilderness areas.

A comment asserted that hunting is a competitive event that BLM
should prohibit. In general, hunting is not a competitive sport, but the regulations do
prohibit organized competitive hunting events. The regulations treat competitive hunting events.

Paragraph (i) of this paragraph
prohibits the "proposition rule prohibiting physical
alteration or depletion of a natural
resource for any purpose, including
the use of any type of drill, permanent
fixed anchor or excavation, the
construction of permanent artificial
hand and footbridges; use of
wheels, skis, or other devices to facilitate
mountain climbing, rock climbing or
cave exploration;" unless allowed under
the applicable BLM management plan or
BLM authorization. This provision of
the proposed rule addressed the most
voluminous public response, over 1,300
comments, and those opposing what was
perceived as a ban on using existing or
new fixed anchors for climbing, or a ban
on temporary fixed anchors such as
slings in trees.

On June 1, 1998, the Forest Service
issued a discretionary review decision in the
Yellowstone area to the Adams County
Wildlife Board, finding that
fixed anchors are "installations"
prohibited by Section 4(e) of the
Wilderness Act. On October 29, 1998,
the Forest Service issued a notice of
intention to establish a regulatory
rulemaking advisory committee to help
develop regulations on the placement,
use and removal of fixed anchors in
national forest wilderness areas.

Reviewing the outcome of this Forest
Service effort, BLM is revising this
paragraph to flat this final rule. In light
of this revision, we also withhold further discussion of the comments until such time as we will publish a final
rule addressing the use of fixed anchors in
BLM wilderness areas.

At a point of clarification, climbers do
not need authorization to use existing
fixed anchors. BLM will not prosecute
actions for using them. However, the final rule will also prohibit the use of
former drills used for climbing or any
other purpose.

Section 632.3(b) What penalties are
subject to? BLM shall assess or more of the
prohibited acts? Section 632.3(b)
A few comments opposed this
prohibition and said that penalties are not
Download error. Please try again later.
Subpart E—Special Provisions

(Paragraphs 7004)

One comment suggested that BLM add a provision to this subpart specifically authorizing hunting, fishing, and trapping in BLM wilderness areas as long as the person doing so does it in accordance with applicable State and Federal law. We have not added such a provision in the final rule. These activities are managed by States, not BLM, because Federal agencies and are not specifically authorized or prohibited by the Wilderness Act.

Section 630.10 Are there special provisions for some uses of wilderness areas?

The few comments addressing this section objected that the activities—mining, peatling, development of mineral, and so forth—allowed in these special areas are not compatible with wilderness. They asked that the regulations state that wilderness use at those places where such activities are permitted to preserve wilderness values.

BLM is obligated to allow these activities in wilderness areas because they are specifically allowed by the “special provisions” of Section 6.2(d) of the Wilderness Act. In most cases the regulations allow the use only if they are existing wilderness designations.

Section 630.20 Are there special provisions for certain public uses within wilderness areas? (Section 6180.21)

A few comments addressed the issue of mining activities. A comment suggested that mining activities should be regulated and that such activities be regulated, regulated, and eliminated where mining activities occur. A comment suggested that mining activities be regulated and that such activities be regulated, regulated, and eliminated where mining activities occur. A comment suggested that mining activities be regulated and that such activities be regulated, regulated, and eliminated where mining activities occur.

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One comment suggested that the regulations specifically authorize hunting, fishing, and trapping in BLM wilderness areas as long as the person doing so does it in accordance with applicable State and Federal law. We have not added such a provision in the final rule.
reclamation requirements in the final rule to the regulations in 43 CFR parts 3000 and 3009. The final rule requires claimants and operators to remove their equipment and structures and begin reclamation within the timeframes established in their plan of operations approved by BLM, but no later than 18 months after they have ceased mining and extracting operations. Regulatory provisions are somewhat flexible to accommodate regional differences. Keeping in mind the discretion in the Wilderness Act to remove the surface area upon operations are ended. We believe that the environmental protection requirements in the regulations are appropriate for mining in a wilderness setting. As for historic preservation and other legislative requirements, a mining operator who is ready to reclaim must propose a reclamation plan that addresses such issues.

One comment said that mining should be prohibited in BLM wilderness. As of mid-1989, December 31, 1989, the location of new mining claims became statutorily prohibited in wilderness, but a Wilderness Act specifically recognizes valid existing rights, including the right to mine valid claims that existed at the time the wilderness was designated and have been properly and completely explored. This has been in effect since that time. Another comment suggested that BLM requires reclamation to the site mining site necessary, in order to provide a benefit to the wilderness. The Wilderness Act does not provide authority to impose such requirements.

One comment stated that BLM believes in the value of mining claims and Mill Sites in Wilderness Areas, and 36 CFR 230. Any comment with standing that mining claims are validly existing and that the property owners have authority whether the rights claimed are valid. Another comment said that BLM makes clear that "no existing approved mining operations are allowed to continue unless the validity of the claims are verified by a mining examination on the basis that BLM reserves the right to impose mining regulations. We note that BLM must verify the validity of all side metal placer claims affected by a proposed plan of operations. In response to the first concern, we have amended the final rule to allow BLM to determine on a case-by-case basis whether operations may begin or continue pending validity examinations. As to the second part of the comment, operations' standards are covered in 43 CFR section 3009. Finally, as to the third part of the comment, the rule requires BLM to make a validity determination before approving a plan of operation.

One comment suggested re-wording paragraph (a) of this section to make it clear that the claimants must be valid when the area becomes wilderness, not just on the date the use designation, BLM adopts this comment, in part, in the final rule to make it clear that the validity must be "as of" the date of wilderness designation.

Section 303(a)-What special provisions apply to mineral leasing and mineral sales? (Sections 303(a)) A few comments addressed this section. One asserted that the proposed rule did not clearly recognize rights under valid existing leases, licenses, and permits. It was to 43 CFR part 3009. A few comments addressed this section. One noted that the proposed rule did not create a new right for leases, licenses, or permits and would continue to exist. The Secretary of the Interior can now conduct a matter that preserves the wilderness character of the land. There is no notation on the face of the Wilderness Act provision. Finally, we removed paragraph (c) of the proposed rule because paragraph (a) was redundant.

One comment stated that BLM will amend section 303(a) to provide that the validity of a lease, license, or permit is for the use designation, BLM, and the Secretary of the Interior to issue regulations under section 303 which apply to mineral leasing and mineral sales.

A few comments addressed this section, which deals with the specific authority in the Wilderness Act for the President of the United States to authorize certain water resource planning and development. The comments raised issues relating to water resource development and the government's responsibilities. One comment said that BLM should be removed from the proposed rule because it would make public lands wilderness. Since the regulations are based directly on the Wilderness Act provision, it is not changed in the final rule except to substitute a codification of the title of the Act. The provision has no bearing on BLM's water resource development authority.
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26BL of PLPM 4 directs the Secretary of the Interior, "by regulation or otherwise, to take any action necessary to prevent unnecessary or undue degradation of the lands." The final regulations specifically implement this authority by providing at section 630.10 that such rights are subject to reasonable regulations.

One comment stated that, for areas surrounded on only three sides by wilderness but where access on the nonwilderness sides may not be possible, the regulations should allow access via the wilderness. Section 5 of the Wilderness Act does not apply to private or State land that is near or adjacent to wilderness, or partly protected by wilderness. Section 5 provides for access only to State and private land that "in substantially the area designated by this Act as wilderness." (16 U.S.C. 1134(a)). Private or State land that is near or adjacent to wilderness would not be an inclusion as defined in these regulations, and we cannot adopt the comment in the final rule.

One comment asked whether BLM, "as the management and regulatory body, [is] entitled to have a decision regarding access to wilderness areas?" The authenticity of the decision as written, and whether BLM might decide that there was insufficient data or that wilderness areas would be accessed, is up to the Interior. The comment asked for clarification of "motions" that are currently being used for determining the feasibility of access to wilderness areas. As the Interior has not approved the use of "motions" for determining the feasibility of access to wilderness areas.

The final rule does not allow construction of new roads. You may maintain existing access routes to the degree you or your predecessors maintained them at the time of wilderness designation. BLM will not allow you to upgrade your access routes beyond the condition that existed on the date Congress designated the area as wilderness, unless the improvement would protect wilderness resources from degradation. Further, the customary range language in section 5 of the Wilderness Act is also validly included in the definition of wilderness and private holdings provided for in Section 56.

One comment stated that the regulations do not acknowledge State and local government jurisdiction of R.S. 2477 rights-of-way. The regulations are silent on how such rights may be identified. BLM is interested in a 1997 statute from permitting regulations on R.S. 2477 rights-of-way without Congressional consent (Public Law 105-268, 112 Stat. 2987-298, 2989-2993).

One comment asked whether the regulations should include the term "homoing," as defined in the definitions section, and provide that inholding does not include prohibited mining claims and grazing leases, but should state that these uses have special rights to access under the Wilderness Act. Response was allowed to make more clear that right of mining claims and persons with other valid occupancy. Two commenters criticized the proposed rule's use of the term "customarily used" as a standard for permitting current access to mining claims and other valid occupancies within wilderness, asserting that the standard would not protect the wilderness. In the final rule, we have substituted the term "customarily enjoyed." Sections 56(b) of the Wilderness Act requires that standards and we may not use a different one.

One comment stated that according to the United States Attorney General's Opinion of June 23, 1982, BLM would not provide access under the Wilderness Act to inholdings if the owner of the inholding has not been granted a reasonable offer of exchange. The Attorney General's Opinion addressed the authority of the Forest Service it has only been determined that the 1980 opinion applies to BLM exchanges in the event the opinion is determined applicable to BLM, this final rule allows for that possibility. Even so, however, BLM's policy will be to exercise that authority unless it is unusual or extreme circumstances. The final rule, therefore, allows BLM to acquire land or enter into land from a landowner by exchange, by surplus donation of the inholding or, if the landowner agrees, by purchase. However, we encourage interested parties to seek a fair exchange of their inholding for public land as provided by Sec. 56(b) of the Wilderness Act, and we expect BLM to participate in the process to explore this possibility in all wilderness inholding cases. In issuing any authorization allowing access to inholdings owned or privately owned, BLM will discuss with the property owner the possibility of selling or donating the inholdings to BLM or exchanging it for other public land.

III. Final Rule as Adopted

The following table shows how BLM referenced the section number in the proposed rule or created new sections in the final rule.

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We have tried in this reasoning to make the organization more logical and the regulations flow better and be more informative. We divided a few of the longer sections in the proposed rule into fewer more slender sections with informative headings.

Also, we have averaged subject matter so that major subject matter headings, with section numbers ending in zero (0) do not occur in these sections.

Provision of a small amount of information, a note at the end of a section, a reference to the statutory definition of "wastewater" in section 4332, and definitions in section 4333.4(a) do not occur in this section.

Executive Order 12865

This rule does not create a governmental action capable of interfering with constitutionally protected property rights or issues in a takings of private property under Executive Order 12630, it does not provide for the taking of any property rights or interests.

One public comment suggested that the access provisions in subpart 603.55 may require a takings assessment under this Executive Order (section 7(b) of the Executive Order states, in part, "Executive departments . . . shall be mindful in decision-making for those takings that are necessitated by statutory mandate."

The only non-Federal property directly affected by the rule is non-Federal land surrounded by designated wilderness, and the rule establishes procedures regulating access to such lands.

There are fewer than 1,000 State and private holdings in BLM wilderness areas in California and Arizona. These two States contain the great bulk of BLM designated wilderness. This is to the approximate number of holdings that may be affected by the proposals of the rule. The rule establishes acquisition by BLM as the remedy of preference for resolving holdings problems. Inhabitants for whom an exchange or other acquisition arrangement will not work will likely need to apply for access under 43 CFR part 2820. Under BLM policy, we will grant access to such inhabitants appropriate for their level of use of the affected property and equivalent to what they enjoyed before wilderness designation.

Congress enacted the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601-611), to ensure that Government regulations do not unduly or disproportionately burden small entities. The RFA requires a regulatory
flexibility analysis if a rule would have a significant economic impact on a substantial number of small entities. BLM has determined under the NFA that this rule will not have a significant economic impact on a substantial number of small entities.

Several public comments mentioned that section 6309(701) of the proposed rule would have a serious impact on small businesses. This argument was based on two premises: (1) that paragraph 6 would prohibit the use of fixed airports and thereby virtually prohibit drilling, and (2) that the rule would affect many drilling areas. In Part II of this preamble, we explained that the Forest Service has begun a negotiated rulemaking. The process must be concluded before BLM can promulgate regulations on this matter. Therefore, we reserve a discussion of the supposed impacts of the rule on small businesses until such time as we publish a final rule containing a provision affecting drilling.

None of the other provisions of the proposed rule would impose costs or bring about negative effects on small businesses.

The Small Business Administration established the Small Business and Agricultural Regulatory Enforcement Ombudsman and ten Regional Fairness Boards to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman receives, evaluates, and passes comment on enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on enforcement activities of this rule, you may call 1888-736-4427.

Paperwork Reduction Act

This final rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501-3520.

Unfunded Mandates Reform Act

This rule will not result in any unfunded mandate to State, local, or tribal governments in the aggregate or to the private sector, of $100 million or more in any one year. This rule will not establish a Federal mandate that may result in expenditures of $100 million or more in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Therefore, BLM need not prepare a written statement of the anticipated costs and benefits of the rule in accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1531-1537).

The rule requires the State agencies comply with the Wilderness Act in carrying out their activities in BLM wilderness areas. For example, State agencies will not be allowed to use motors, equipment or mechanical transport, or to land aircraft, in managing wildlife. This degree of limitation does not cross the financial threshold contemplated in the Unfunded Mandates Study Act, and is required by Federal law.

Executive Order 12696

The Department has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12696.

Executive Order 12898

In accordance with Executive Order 12898, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule does not preempt State law. Several comments on the proposed rule questioned whether the rule would affect State management of fish and wildlife. This was the only area when the public perceived potential conflicts between BLM and the States. As stated several times earlier in this preamble, and as directed by both FLPMA and the Wilderness Act, this rule has no effect on the respective roles of Federal and State government in this area.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 21, 1994, "Government-to-Government Relations with Native American Tribal Governments," these regulations affect: 6362-19031, 512 DM 2, and 512 DM 3. We have reviewed possible effects on Federally recognized Indian tribes and have determined that there are no adverse effects on the tribes. The regulations specifically show Indian use of BLM wilderness for religious ceremonies. Limitations imposed on Indians for the use of BLM wilderness in the rule are no different from limitations imposed on other groups, and are required by the Wilderness Act and FLPMA. The regulations have no effect on Indian water rights, tribal reservations, or other Indian lands.

List of Subjects in 43 CFR Parts 6300 and 8360

Pension; Public Land, Reporting and Recordskeeping Requirements; Wilderness Areas.

For the reasons explained in the preamble, and under the authority of 43 U.S.C. 1716, chapter 2, subtitle B of title 43 of the Code of Federal Regulations is amended as follows:


Sylvia V. Bacon,
Assistant Secretary of the Interior.

1. Subchapter F—Preservation and Conservation (6300)

Part 6300—Management of Designated Wilderness Areas

Subpart 6301—Introduction

Sec. 6301.1 Purpose.

Sec. 6301.2 What is a BLM wilderness area?

Sec. 6301.3 Definitions.

Subpart 6302—Use of Wilderness Areas, Prohibited Acts, and Penalties

Use of Wilderness Areas

Sec. 6302.1 Use of wilderness areas.

Sec. 6302.2 How may I use wilderness areas?

Sec. 6302.3 How may I camp in wilderness areas?

Sec. 6302.4 How may I hunt and fish in wilderness areas?

Sec. 6302.5 How and when may I obtain a wilderness permit?

Sec. 6302.6 How may I use a wilderness area for non-Indian religious purposes?

Sec. 6302.7 What is BLM close use wilderness?

Subpart 6303—Penalties

Sec. 6303.1 What is prohibited in wilderness areas?

Sec. 6303.2 What penalties apply if I committed one or more of the proscribed acts?

Subpart 6304—Administrative and Emergency Functions

Sec. 6304.1 How are administrative and emergency functions carried out?

Subpart 6305—Provisions of the Wilderness Act

Sec. 6305.1 How are provisions of the Wilderness Act applied?

Part 8360—Mining Under the General Mining Law

Sec. 8360.2 How are mining regulations administered and under what conditions?

Sec. 8360.3 How will BLM determine the validity of unsanctioned mining claims or sites?
Subpart 620—Use of Wilderness Areas, Prohibited Acts, and Penalties

Use of Wilderness Areas

§ 620.10 Use of wilderness areas.

Unlike otherwise provided by BLM, the Wilderness Act, or the Act of Conger designating the area as wilderness, all wilderness areas will be open to use consistent with the preservation of their wilderness character and their future use and management as wilderness. In subpart 620 you will find provisions implementing the special provisions of the Wilderness Act that allow specific uses of wilderness areas. In §620.20 you will find a list of acts that are explicitly prohibited within wilderness areas.

§ 620.32 When do I need an authorization to do what?

(a) You may need an authorization to do what? To do anything that is not otherwise prohibited by the Wilderness Act.

(b) BLM may require an authorization and charge fees for most uses of wilderness areas. You must obtain authorization from BLM and pay fees to use a wilderness area unless required by:

(1) the regulations in this part (see §610.16 on collecting natural resource materials, §610.20 on gathering scientific information, and §620.40 on access to inholdings and valid occupied claims);

(2) Regulations in this chapter 3—Bureau of Land Management;

§ 620.13 Where do I obtain an authorization to do what? 

You may request an authorization from the BLM field office with jurisdiction over the wilderness area you want to use.

§ 620.14 What authorization do I need to climb in wilderness?

(a) If you need a permit or other authorization to climb in BLM wilderness.

(b) [Reserved]

(c) You must use power prills for climbing. See §610.26(d).
§630.15 What and how may I collect or disturb natural resources of non-commercial purposes in wilderness areas, including prospecting, provided—
(a) You may collect or disturb natural resources for non-commercial purposes in wilderness areas, including prospecting, provided—
(i) You do not in a manner that preserves the wilderness environment, using no more than non-motorized land tools and causing minimal surface disturbance; and
(ii) Your proposed activity conforms to the applicable management plan;
(b) You have a BLM authorization if one is required by statute or regulation;
(c) Where BLM allows activities in a wilderness, you may gather a reasonable amount of wood for use in your campsite.

§630.16 Where and how may I gather scientific information about resources in BLM wilderness?
(a) You may conduct research, including gathering information and collecting natural or cultural resources in wilderness areas, using methods that cause greater impacts on the wilderness environment than allowed under §630.15(b),—
(1) Similar research opportunities are not reasonably available outside wilderness;
(2) Your research activity is a manner compatible with the preservation of the wilderness environment and conforming to the applicable management plan;
(3) You provide permanence or removal of minimal necessary for the scientific purposes of the research and;
(4) You have an authorization from BLM.
(b) You must reclaim disturbed areas. BLM may require you to post a bond.

§630.17 Whe n may I use a wheelchair in BLM wilderness areas for non-commercial purposes?
If you have a disability that requires the use of a wheelchair, you may use a wheelchair in a wilderness. Consistent with the Wilderness Act and the Americans with Disabilities Act of 1990 (42 U.S.C. 12102), BLM is not required to facilitate such use by building any facilities or modifying any conditions of lands within a wilderness area.

§630.18 Whe n may American Indians use wilderness areas for traditional religious purposes?
In accordance with the American Indian Religious Freedom Act (42 U.S.C. 1801 et seq.), American Indians may use wilderness areas for traditional religious purposes, subject to the provisions of the Wilderness Act, the prohibitions in §630.20, and other applicable law.

§630.19 Whe n may BLM close or restrict use of wilderness areas?
When necessary to carry out the provisions of the Wilderness Act and initial Federal laws, BLM may close or restrict the use of lands or waters within the boundaries of a BLM wilderness area, using the procedures in §630.20 of this chapter. BLM will limit any such closure to the smallest area necessary for the shortest time necessary.

§630.20 Prohibited Acts
(a) Any activity specifically provided in the Wilderness Act, the individual statutes designating the particular BLM wilderness area, or the regulations of this part, and subject to valid existing rights, in BLM wilderness areas, you must not—
(1) Operate a commercial enterprise;
(2) Build temporary or permanent structures;
(3) Build aircraft landing strips, heliports, or helipads;
(4) Use specialized equipment, except motor vehicles, motorcycles, or off-road equipment;
(5) Land aircraft, or drop or pick up any material, equipment or personnel by means of aircraft, including a helicopter, hang-glider, hot air balloon, parachute, or parasail;
(6) Build, install, erect structures or installations, including transmission lines, motels, vacation homes, sheds, stores, remote observation camps,3 hunting and fishing, and electronic installations and similar structures, other than tents, temporary or semipermanent, and similar devices for overnight camping;
(7) Cut trees.
(b) You are not to use wilderness areas without authorization, where BLM requires authorization under §630.12.
(i) Exercise in competitive use as defined in section 872(7) of this chapter, including those activities involving physical exertion of a person or animal, such as, watercraft races, survival exercises, war games, or other similar exercises;
(ii) [Reserved]
(iii) [Reserved]
(iv) [Reserved]
(v) Use any BLM regulation, authorization, or order.

Procedures
§630.20 When may I operate a commercial enterprise in a BLM wilderness area, you are subject to criminal prosecution on so much of the offense if convicted, you may be fined not more than $1,000 or under 18 U.S.C. 3871. In addition, you may be imprisoned for not more than 12 months, as provided for by 18 U.S.C. 3731.
(b) As the request of the Secretary of the Interior, the United States Attorney General may institute a civil action in any United States District Court for an injunction or other appropriate order to prevent you from using plastic labels in violation of the regulations of this part.

Subpart 630—Administrative and Emergency Functions.
§630.11 How does BLM carry out administrative and emergency functions?
As necessary to meet minimum requirements for the administration of the wilderness areas, BLM may—
(a) Use, build, or install temporary roads, motor vehicles, mechanized equipment, mechanical transport, structures or installations, and land aircraft in designated wilderness;
(b) Prescribe conditions under which other Federal, State, or local agency in its agency may use, build, or install similar use in the authorized or regular administration of the wilderness other than those in designated wilderness and;
(c) Authorize officers, employees, agents, or agents of Federal, State, and local Government to carry out any use wilderness areas to carry out the purposes of the Wilderness Act or other Federal and; and
(d) Prescribe measures that may be used in emergency involving the health and safety of persons in the area, including, but not limited to, the conditions for use of motorized equipment, mechanical transport, aircraft, installations, structures, rock drills, and fixed anchor in the wilderness and;

Subpart 630—Use Addressed in the Provisions of the Wilderness Act
§630.10 Mining laws administration.
§630.11 When specific provisions of the mining laws apply to operations under the mining law.
§630.12 Am I subject to any Federal laws not otherwise covered by any of the preceding acts?
General mining laws apply to valid existing mining claims and mineral sites within BLM wilderness, except as provided in this section.
claim site is valid as of the date that lands within the wilderness area were withdrawn from appropriation under the mining laws. We also determine whether your claim or site remains valid at the time of the examination.

(6) If you do not have an approved plan of operations, BLM must complete this validity determination before approving your plan of operations.

(7) If you have a plan of operations that was approved before the wilderness designation, BLM will determine whether operations may begin or continue while we conduct the validity determination.

(b) If BLM concludes that your mining claim lacks a discovery of a valuable mineral deposit or your claim or site is invalid for any other reason, we will disapprove your application for a plan of operations. For an existing approved operation, BLM may issue a legal ordering suspension or cessation of operations. We will begin contested proceedings to determine the validity of your mining claim or site under part 4 of this rule. However, you may take samples and gather other evidence to confirm or contest mineral exposures that were physically disclosed on the claim before the date the wilderness area was withdrawn.

(c) If the Department of the Interior issues a final determination that the claims are not valid, you must cease all mining operations and complete all reclamation required under part 3630 of this chapter and part 404 of this part.

(d) Other Uses Specifically Addressed by the Wilderness Act

§3640.20 Other uses addressed in special provision of the Wilderness Act.

§3640.21 Special provisions covered in other sections of this part.

(a) Subject to such regulations as BLM determines necessary to protect wilderness values, we may authorize you to land aircraft and use watercrafts at places within any wilderness area if those uses were established and active at the time Congress designated the area as wilderness.

(b) BLM may also authorize you to maintain, utilizing non-motorized means, snowmobile trails, hiking trails or similar use facilities that existed and were in active use when Congress designated the area as wilderness.

§3640.22 What special provisions apply to removal of fish, insects, and diseases?

BLM may prescribe measures to control fish, serious pests, or non-native invasive plants, insects, and diseases. BLM may require restoration, concurrent with or as soon as practicable upon completion of such measures.

§3640.23 What special provisions apply to mineral leasing and mineral sales?

(a) After Congress designates any area as a wilderness, BLM will no longer lease mineral or geothermal leases, licenses, permits under the minerals or geothermal leasing laws, or sales contracts or leases for use permits under the Mineral Act of 1950, etc.

(b) BLM may continue to hold and operate mineral or geothermal leases, licenses, permits as authorized by the leasing regulations, and to charge rents therefor.

§3640.24 What special provisions apply to water and power resources?

If the President specifically authorizes you to use water resources covered by the Water Resources Act, BLM will permit you to purchase, use, and operate water resources, water projects, transmission lines, and other facilities desired in the national interest, and to maintain such facilities.

§3640.25 What special provisions apply to livestock grazing?

(a) In a wilderness the grazing permit or grazing lease for land within a wilderness area you may continue to graze your livestock provided that you or your premises began such use before Congress established the wilderness area.

(b) Your grazing activities within wilderness areas, including the construction, use, and maintenance of livestock management improvements, must comply with the livestock grazing regulations in part 410 of this title.

(c) If the management plan for the area allows, you may maintain or reconstruct grazing support facilities that existed before designation of the wilderness area. BLM will not authorize new support facilities for the purpose of increasing your number of livestock.

(d) The construction of new livestock management facilities must be for the purposes of protection and improved management of wilderness resources.

(e) BLM may authorize an increase in livestock numbers only if you demonstrate that the additional use will not have an adverse impact on wilderness values.
Subpart 6305—Access to State and Private Lands or Valid Occupancies Within Wilderness Areas

Access to Non-Federal Inholdings

§6305.10 How will BLM allow access to State and private lands within wilderness areas?

(a) If you own land completely surrounded by wilderness, BLM will only approve that combination of routes and modes of travel to your land that:

(1) BLM finds exist on the date Congress designated the area surrounding the inh advisable for the reasons.

(2) BLM determines will serve the reasonable purposes for which the non-Federal lands are held or used and cause the least impact on wilderness character.

(b) If you own land completely surrounded by wilderness, no routes or modes of travel to your land used on the date Congress designated area surrounding the wilderness area, BLM will only approve that combination of routes and non-motorized modes of travel to non-Federal inholdings that BLM determines will serve the reasonable purposes for which the non-Federal lands are held or used and cause the least impact on wilderness character.

(c) If BLM approves your access route under paragraph (a) or (b) of this section, we will authorize it under part 2920 of this chapter.

(d) BLM will not allow construction of new access routes to State and private inholdings in wilderness.

(e) BLM will not allow improvement of access routes to a condition more highly developed than that which existed on the date Congress designated the area as wilderness, except such improvements BLM determines are necessary to protect wilderness resources from degradation.

(f) If you own land completely surrounded by wilderness and you have a valid existing right of access which is greater than the access described in paragraph (a) or (b) of this section, BLM may manage such access to protect wilderness resources while ensuring your reasonable use and enjoyment of the inholding.

§6305.11 What alternatives to granting access will BLM consider in areas of State and private inholdings?

To reduce or eliminate the need to use wilderness areas for access to State and private land, BLM may:

(a) Accept dedication of the inholding.

(b) Acquire the inholding from the owner by exchange for federally owned land that is the same size and is approximately equal in value to the entire concern, by purchase.

Access to Other Valid Occupancies

§6305.20 How will BLM allow access to valid mining claims or other valid occupancies within wilderness areas?

If you build a valid mining claim or other valid occupancy wholly within a wilderness area, BLM will allow you access by means that are consistent with the preservation of the area as wilderness and that have been or are being customarily enjoyed with respect to other mining claims or similar occupancies surrounded by wilderness.

(a) BLM approves plans of operation under subpart 3000 of this chapter. The plan of operation will prescribe the routes of travel that you may use for access to claims or site surrounded by wilderness. These plans will also identify the mode of travel, and other conditions reasonably necessary or existing wilderness area.

(b) BLM issues written authorizations under part 2920 of this chapter. Your authorization will prescribe the routes of travel that you may use for access to occupancies surrounded by wilderness.

The authorizations will also identify the mode of travel and other conditions reasonably necessary to minimize adverse impacts on the natural resource values of the wilderness area.

Access Procedures for Valid Occupancies

§6305.10 What are the steps BLM must take in issuing an access authorization to valid occupancies?

(a) Before issuing an access authorization to mining claims or other valid occupancies wholly surrounded by wilderness, BLM will make certain that:

(1) You have demonstrated a lack of any existing access right or alternate means of access available to you or another the public.

(2) BLM determines that the use of the non-Federal land that is approximately equal to the land is reasonable and the

(3) You have the authority to use the non-Federal land that is approximately equal to the land is reasonable and the

(4) You have the authority to use the non-Federal land that is approximately equal to the land is reasonable and the

PART 2960 [Removal]

2. Group 1500, part 2960, and support authorities are removed.

(7) The above authorities will prescribe the routes of travel that you may use for access to occupancies surrounded by wilderness.