

# **ALASKA SUPPLEMENT TO THE MINIMUM REQUIREMENTS DECISION GUIDE**

This supplement assists managers in adapting use of the interagency Minimum Requirement Decision Guide of the Arthur Carhart National Wilderness Training Center to Alaska's wilderness units.

2016, Revised

# Table of Contents

- 1.0 INTRODUCTION ..... 3
- 2.0 WILDERNESS ACT BACKGROUND ..... 3
  - 2.1 ORIGIN OF THE MINIMUM REQUIREMENTS EXCEPTION ..... 3
  - 2.2 WHAT IS THE PURPOSE OF WILDERNESS? ..... 4
  - 2.3 WHAT IS WILDERNESS? ..... 4
  - 2.4 HOW IS WILDERNESS ADMINISTERED? ..... 4
- 3.0 ANILCA CONTEXT ..... 5
- 4.0 PROHIBITIONS AND EXCEPTIONS UNDER THE WILDERNESS ACT AND ANILCA ..... 6
  - 4.1 WILDERNESS ACT PROHIBITIONS ..... 6
  - 4.2 EXCEPTIONS TO THE WILDERNESS ACT PROHIBITIONS ..... 7
    - 4.2.1 EXISTING PRIVATE RIGHTS ..... 7
    - 4.2.2 SPECIAL PROVISIONS OF THE WILDERNESS ACT AND ANILCA ..... 7
      - 4.2.2.1 Commercial Enterprise ..... 7
      - 4.2.2.2 Grazing ..... 8
      - 4.2.2.3 Transportation and Utility Systems ..... 8
      - 4.2.2.4 Mineral Assessments ..... 9
      - 4.2.2.5 Access ..... 9
      - 4.2.2.6 Structures and Installations ..... 11
      - 4.2.2.7 Motorized Equipment and Mechanical Transport ..... 14
    - 4.2.3 MINIMUM REQUIREMENTS FOR ADMINISTRATION ..... 14
    - 4.2.4 MINIMUM REQUIREMENTS ANALYSIS ..... 14
      - 4.2.4.1 Selected Regulations and Policies ..... 15
- 5.0 WILDERNESS AREAS IN ALASKA ..... 15
  - 5.1 NATIONAL PARK SERVICE ..... 15
  - 5.2 FISH AND WILDLIFE SERVICE ..... 16
  - 5.3 FOREST SERVICE ..... 16
- 6.0 ACKNOWLEDGEMENTS ..... 17

## 1.0 INTRODUCTION

This document is for use by federal land management agencies that oversee administrative activities and to inform state, federal, and private entities that may conduct activities within designated wilderness areas in Alaska or otherwise have an interest (see Section 5.0 for a list of designated wilderness areas in Alaska). The purposes of this document are to:

- provide the context and background to administer wilderness under the provisions of the Wilderness Act of 1964 (PL 88-577) and Alaska National Interest Lands Conservation Act of 1980 (ANILCA), as amended, (PL 96-487);
- enhance understanding of the application of the Arthur Carhart National Wilderness Training Center “Minimum Requirements Decision Guide” (MRDG) in Alaska; and
- encourage and facilitate communication among involved parties.

In order to increase consistency among federal agencies, this document summarizes authorized uses in designated wilderness<sup>1</sup> in Alaska and clarifies “why” and “how” federal land managers determine “minimum requirements” in the administration of wilderness areas. This document serves as the Alaska supplement for managers in adapting use of the interagency MRDG to Alaska’s wilderness units.<sup>1</sup>

The Wilderness Act provisions addressed in this document are not unique to Alaska, but are included to ease comparison between the Wilderness Act and ANILCA. This document does not interpret various provisions of the Wilderness Act and ANILCA. Interpretations of these legislative provisions may be found in agency regulations and policies, court cases, and solicitor or general counsel opinions. This supplement does not replace existing agency-specific policies and procedures. (See Page 19 for a list of relevant policies, procedures, and regulations).

This document is primarily used to help understand and complete Step 1 of the interagency MRDG. It may be necessary to take action to satisfy a special provision of ANILCA (Step 1.A. of the MRDG), but this may not preclude the need to determine the minimum tool for that activity (Step 2 of the MRDG).

## 2.0 WILDERNESS ACT BACKGROUND

### 2.1 ORIGIN OF THE MINIMUM REQUIREMENTS EXCEPTION

The phrase “minimum requirements” comes from Section 4(c) of the Wilderness Act:

*“Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and **except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act** (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.”* (emphasis added)

---

<sup>1</sup> Although not designated wilderness, the Nellie Juan-College Fiord Wilderness Study Area is included in this guide (ANILCA Section 704)

For the purposes of this supplement, “administration” is an activity or action conducted by the federal land management agency or an agency-authorized entity, not by the public. Agency-authorized entities may include other federal agencies, state agencies, contractors, cooperating agencies, cooperating associations, researchers, agency support groups, or volunteers.

Administrative activities that may be subject to a minimum requirements analysis include, but are not limited to: special use and right-of-way permits, resource inventory and monitoring, scientific research, habitat manipulation, fish and wildlife population control, law enforcement patrols, construction and maintenance of trails, signs, and cabins, and discretionary fire management activities.

Each federal land management agency may use a minimum requirements analysis for additional activities or may include additional activities in the definition of administrative activity. (See specific agency links.)

## **2.2 WHAT IS THE PURPOSE OF WILDERNESS?**

The purpose of wilderness is stated in Section 2(a) of the Wilderness Act: *“In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.”*

## **2.3 WHAT IS WILDERNESS?**

Wilderness is defined in Section 2(c) of the Wilderness Act:

*“A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.”*

## **2.4 HOW IS WILDERNESS ADMINISTERED?**

Different sections of the Wilderness Act establish the administration and uses of designated wilderness areas, including:

Section 2(a):

*“. . . For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as "wilderness areas", and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection*

*of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act."*

Section 4(a):

*"The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered..."*

Section 4(b):

*"Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use."*

Designated wilderness areas in Alaska are managed under the provisions of the Wilderness Act, establishing legislation such as ANILCA, federal regulations, and agency policies.

### **3.0 ANILCA CONTEXT**

ANILCA defined "conservation system units" to include areas designated as wilderness:

Section 102(4):

*"The term 'conservation system unit' means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter."*

Congress established the conservation system units in ANILCA for the following purposes, among others:

Section 101(a):

*"In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established."*

Section 101(b):

*"It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including*

*but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on free-flowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.”*

The National Park Service, the Fish and Wildlife Service, and the Forest Service manage wilderness areas in Alaska. In addition, the Chugach National Forest contains one wilderness study area, the Nellie Juan-College Fiords Wilderness Study Area. The Chugach National Forest Revised Land and Resource Management Plan and Forest Service Manual Alaska R-10 supplement 2320.3 requires the Forest Service to manage the Nellie Juan-College Fiords Wilderness Study Area to maintain wilderness character until Congress acts on designation. The Bureau of Land Management does not have designated wilderness areas in Alaska. They do have one Wilderness Study Area (WSA), the Central Arctic Management Area, which was identified by Section 603. (a) of the Federal Land Policy and Management Act of 1976 (FLPMA) and is managed according to Section 603. (c) of the same act. (See Appendix A for a complete list of wilderness areas in Alaska.)

ANILCA addresses the administration of wilderness areas in Alaska in Sections 102(13) and 707: Section 102(13):

*“The terms “wilderness” and “National Wilderness Preservation System” have the same meaning as when used in the Wilderness Act (78 Stat. 890).”*

Section 707:

*“Except as otherwise expressly provided for in this Act wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 701 and 702 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.”*

## **4.0 PROHIBITIONS AND EXCEPTIONS UNDER THE WILDERNESS ACT AND ANILCA**

### **4.1 WILDERNESS ACT PROHIBITIONS**

Section 4(c) of the Wilderness Act lists 10 prohibited uses or activities:

- Commercial enterprise
- Permanent roads
- Temporary roads
- Use of motorized equipment
- Landing of aircraft
- Structures
- Installations
- Use of motor vehicles
- Use of motorboats
- Use of other forms of mechanical transport

## 4.2 EXCEPTIONS TO THE WILDERNESS ACT PROHIBITIONS

For analysis purposes, this supplement describes four types of exceptions to the Wilderness Act prohibitions in Alaska:

- Existing private rights
- Special provisions in the Wilderness Act
- Provisions found in ANILCA and other subsequent legislation
- The minimum requirements exception in Section 4(c) of the Wilderness Act: “. . . *necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area)*...”

The following discussion about exceptions is intended as a general summary of the special provisions under the Wilderness Act and ANILCA and does not include all detailed analyses found in case law, solicitor or general counsel opinions, regulations, Memorandums of Understandings, and federal agency policies or plans.

### 4.2.1 EXISTING PRIVATE RIGHTS

The prohibitions in Section 4(c) of the Wilderness Act are subject to existing private rights. A person claiming valid existing rights (VERs) must demonstrate that a legally binding conveyance, lease, deed, contract or other document vests that person, or a predecessor in interest, states such right. VERs are granted only by provisions in law. These may include rights associated with mining, water, rights-of-way, or access to non-federal lands inside wilderness. An example is a water development (such as a dam) that predates the designation of the wilderness. The owner of the water right has an associated right of access to (and maintenance of) that development. Remember, however, that even when a VER is established, management is nonetheless accomplished employing the minimum necessary use that still satisfies the right.

### 4.2.2 SPECIAL PROVISIONS OF THE WILDERNESS ACT AND ANILCA

Note: The Wilderness Act and ANILCA exceptions are addressed together in related topics below for ease of comparison. They provide statutory authority for certain activities and are important in completing a minimum requirements analysis.

#### 4.2.2.1 Commercial Enterprise

The Wilderness Act Section 4(c) prohibits commercial enterprise in wilderness areas, unless they are subject to an existing private right or allowed by a special provision in the Act or in subsequent legislation.

##### 4.2.2.1.1 Commercial Services<sup>2</sup>

Section 4(d)(6) of the Wilderness Act provides for certain commercial enterprise in wilderness if it is provided as a commercial “service”, such as services provided by outfitters and guides:

*“Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.”*

ANILCA also contains provisions in Section 1307 affecting visitor services in designated wilderness:

---

<sup>2</sup> Each agency administers commercial services differently, subject to applicable statutes, regulations, and policy.

*“(a) CONTINUATION OF EXISTING VISITOR SERVICES. Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.”*

*“(c) DEFINITION. As used in this section, the term “visitor service” means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides excepting the guiding of sport hunting and fishing. Nothing in this Act shall limit or affect the authority of the Federal Government or the State of Alaska to license and regulate transportation services.”*

#### 4.2.2.1.2 Commercial Fishing

Section 304(d) of ANILCA authorizes continued exercise of existing valid commercial fishing rights or privileges within units of the National Wildlife Refuge System provided the Secretary does not find that such activities are inconsistent with refuge purposes and are not a significant expansion of activities that existed in 1979.

#### 4.2.2.1.3 Subsistence Uses

Subsistence trade and barter of fish and wildlife are allowed in some circumstances. Section 803 of ANILCA defines subsistence uses as follows:

*“. . . the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.” “Family” and “barter” are defined in Section 803 for further clarification: “(1) “family” means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and*

*(2) “barter” means the exchange of fish or wildlife or their parts, taken for subsistence uses -*

*(A) for other fish or game or their parts; or*

*(B) for other food or for nonedible items other than money if the exchange is of a **limited and noncommercial nature.**” (emphasis added)*

Additional information on subsistence uses can be found in agency regulations and policies.

#### 4.2.2.2 Grazing

The following ANILCA sections apply to grazing:

Section 302(7)(C) allows reindeer grazing, including construction and maintenance of facilities and equipment, on the Selawik National Wildlife Refuge for grazing operations under permit as of January 1, 1976.

Section 303(7)(C) allows reindeer grazing on the Yukon Delta National Wildlife Refuge where compatible with refuge purposes.

#### 4.2.2.3 Transportation and Utility Systems

Title XI of ANILCA addresses transportation and utility systems. Section 1101(a) states:

*Alaska's transportation and utility network is largely undeveloped and the future needs for transportation and utility systems in Alaska would best be identified and provided for through an orderly, continuous decision-making process involving the State and Federal Governments and the public.*

Title XI of ANILCA establishes a process for authorizing transportation and utility systems in and across conservation system units, including the construction, operation, and maintenance of an approved system. Section 1104 prescribes the process for submitting applications and reviewing applications for the construction of any transportation or utility systems. Any required NEPA analysis must be completed and be a part of the application that is submitted for approval. Each Federal agency concerned must make a decision to approve or disapprove the application within 4 months of receiving any final NEPA documents. Section 1106(b) provides a process for approval of a transportation or utility system, such as canals, pipelines, electric transmission lines, roads, railroads, docks, or airports, and telecommunications facilities in designated wilderness. Each concerned Federal agency will forward their recommendation to approve or disapprove the application that is relevant to their jurisdiction to the President. The recommendation will include a statement of reasons and findings supporting the agency's decision. If the President approves the transportation or utility system, the recommendation is forwarded to Congress for approval or disapproval, followed by an authorization from the appropriate federal agency if Congress approves the transportation or utility system.

#### **4.2.2.4 Mineral Assessments**

Provisions in both the Wilderness Act and ANILCA similarly allow only public land administrators to conduct mineral assessments in wilderness areas. Section 4(d)(2) of the Wilderness Act provides for certain mineral activities in national forest wilderness, as follows:

*"Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the United States Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress."*

Section 1010 of ANILCA provides for mineral assessments on all public lands in Alaska, including in wilderness areas, as follows:

*"The Secretary shall, to the full extent of his authority, assess the oil, gas, and other mineral potential on all public lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within the national park system, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act."*

#### **4.2.2.5 Access**

Section 4(d)(1) of the Wilderness Act provides that certain motorized uses may be permitted to continue in wilderness areas:

*“Within wilderness areas designated by this Act, the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable.”*

ANILCA addresses certain activities and access methods that are otherwise prohibited by the Wilderness Act, as follows:

#### 4.2.2.5.1 Valid Existing Rights

Section 1109 of ANILCA addresses valid existing access rights:

*“Nothing in this title shall be construed to adversely affect any valid existing right of access.”*

#### 4.2.2.5.2 Access for Traditional Activities

Section 1110(a) of ANILCA provides for access for traditional activities, and for travel to and from villages and homesites:

*“(a) Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.”*

#### 4.2.2.5.3 Subsistence Access

Section 811 of ANILCA provides for access for subsistence activities, as follows:

*“(a) The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.*

*(b) Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.”*

Refer to agency regulations and policies for further guidance.

#### 4.2.2.5.4 Access to Inholdings

Access to inholdings and other valid occupancies in Alaska are addressed by Section 1110(b) of ANILCA:

*(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and*

*other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.*

Refer to agency regulations and policies for further guidance. **4.2.2.5.5 Temporary Access**

Section 1111 of ANILCA provides for certain temporary access through wilderness for survey, geophysical, exploratory, or other temporary uses on state or private land:

*“(a) IN GENERAL.—Notwithstanding any other provision of this Act or other law, the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.”*

*“(b) STIPULATIONS AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.”*

#### **4.2.2.5.6 Other Access**

Sections 304, 1310 and 1315(b) of ANILCA contain access provisions for specific purposes (see Structures and Installations section below).

### **4.2.2.6 Structures and Installations**

#### **4.2.2.6.1 Commercial Fishing Facilities**

Section 304(d) of ANILCA authorizes the use of Federal lands for certain structures and vehicles and other uses related to the exercise of commercial fishing rights or privileges within units of the National Wildlife Refuge System:

*“The Secretary shall permit within units of the National Wildlife Refuge System designated, established, or enlarged by this Act, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law and the use of Federal lands, subject to reasonable regulation, for campsites, cabins, motorized vehicles, and aircraft landings directly incident to the exercise of such rights or privileges.”*

#### **4.2.2.6.2 Navigation Aids**

Section 1310 of ANILCA provides for access to, and operation, maintenance, and construction of certain new and existing facilities in wilderness:

*(a) EXISTING FACILITIES.— Within conservation system units established or expanded by this Act, reasonable access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Reasonable access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities*

*notwithstanding any other provision of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act.*

*(b) NEW FACILITIES.— The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance, and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.*

#### 4.2.2.6.3 Aquaculture Facilities

Section 1315 (b) addresses facilities and access for certain fishery purposes in National Forest wilderness and wilderness study areas designated by the Act:

*“In accordance with the goal of restoring and maintaining fish production in the State of Alaska to optimum sustained yield levels and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of Agriculture may permit fishery research, management, enhancement, and rehabilitation activities within national forest wilderness and national forest wilderness study areas designated by this Act. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including temporary use of motorized equipment, shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.”*

#### 4.2.2.6.4 Cabins

While the Wilderness Act prohibits structures, ANILCA provides certain exceptions for construction, use, and occupancy of cabins.<sup>3</sup> In addition to Section 304(d) of ANILCA 3 discussed above (4.2.2.6.1), Section 1303(a)(4) of ANILCA authorizes certain **new** cabins on National Park System land: *“The Secretary may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, construction and maintenance of new cabins or other structures if he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.”*

---

<sup>3</sup> See agency regulations and policies implementing the cabin provisions of ANILCA.

On other units (non-NPS), Section 1303(b)(1) provides for construction, use, and occupancy of any new cabins:

*“The construction of new cabins is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area where the permit applicant has no reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.”*

Existing private use cabin leases and permits may be continued, renewed, or transferred pursuant to Section 1303(d) of ANILCA:

*“(d) EXISTING CABIN LEASES OR PERMITS.— Nothing in this Act shall preclude the renewal or continuation of valid leases or permits in effect on the date of enactment of this Act for cabins, homesites, or similar structures on Federal lands. Unless the Secretary, or in the case of national forest lands, the Secretary of Agriculture, issues specific findings following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat to or a significant impairment to the purposes for which a conservation system unit was established (in the case of a structure located within a conservation system unit) or the public domain or national forest (in case of a structure located outside conservation system units), he shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit, subject to such reasonable regulations as he may prescribe. Subject to the provisions of the original lease or permit, nothing in this Act or subsection shall necessarily preclude the appropriate Secretary from transferring such a lease or permit to another person at the election or death of the original permittee or lease-holder.”*

Section 1315(c) of ANILCA allows the continuation of existing public use cabins and Section 1315(d) provides for the construction of a limited number of new public use cabins in designated wilderness if necessary for public health and safety:

*“(c) EXISTING CABINS.—Previously existing public use cabins within wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.*

*(d) NEW CABINS.—Within wilderness areas designated by this Act, the Secretary or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter.”*

#### 4.2.2.6.5 Temporary Facilities

Section 1316 of ANILCA allows continuance of existing uses and future establishment and use of temporary facilities and equipment on public lands, including wilderness, where the taking of fish and wildlife is permitted:

*“(a) On all public lands where the taking of fish and wildlife is permitted in accordance with the provisions of this Act or other applicable state and federal law the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be constructed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the area by the permittee.*

*(c) Notwithstanding the foregoing provisions, the Secretary may determine, after adequate notice, that the establishment and use of such new facilities or equipment would constitute a significant expansion of existing facilities or uses which would be detrimental to the purposes for which the affected conservation system unit was established, including the wilderness character of any wilderness area within such unit, and may thereupon deny such proposed use or establishment.”*

#### **4.2.2.7 Motorized Equipment and Mechanical Transport**

Several provisions of the Wilderness Act and ANILCA address use of motorized equipment and mechanical transport for specific purposes. For example, Section 703(b) of ANILCA states: *Existing mechanized portage equipment located at the head of Semour Canal on Admiralty Island may continue to be used.*

For additional provisions, see Subsistence Access, Access for Traditional Activities, and Structures and Installations sections described above.

#### **4.2.3 MINIMUM REQUIREMENTS FOR ADMINISTRATION**

The fourth type of exception (see Section 4.2) to the prohibitions in Section 4(c) of the Wilderness Act is the minimum requirements exception. Agencies responsible for administering wilderness may conduct or permit certain activities that are normally prohibited if the activities are “necessary to meet minimum requirements for the administration of the area for the purpose of [the Wilderness] Act.” A minimum requirements analysis must be conducted to make this determination. The minimum requirements exception does not apply to the prohibitions of commercial enterprise or permanent roads.

#### **4.2.4 MINIMUM REQUIREMENTS ANALYSIS**

Agencies implement the minimum requirements analysis using two steps: 1) determine whether the proposed action is necessary for administration of the area as wilderness; if so, 2) identify the minimum activity (minimum tool).

The minimum requirements analysis is used for the following purposes:

- identify, evaluate, and select management actions
- document the decision
- facilitate communication among involved parties
- promote wilderness stewardship

Early communication is key to successful completion of a minimum requirements analysis. When an action is initially proposed in wilderness, during the project-planning phase, the project manager (whether biologist, trail manager, research scientist, etc.) and the local wilderness coordinator

should jointly discuss the project in sufficient detail to determine the information needed. The level of detail and effort necessary for a minimum requirements analysis process depends on the scope and complexity of the issue or problem being considered.

The four federal land management agencies through the Arthur Carhart National Wilderness Training Center developed a [“Minimum Requirements Decision Guide”](#) (MRDG) to establish a standardized national process to document, identify, analyze, and select management actions that are necessary to meet the minimum requirements for the administration of wilderness. The MRDG format is only required by BLM policy; however, use of some kind of minimum requirements decision-making process will help to ensure consistency in appropriate application of the minimum requirements exception in the Wilderness Act and is required by all of the agency’s policies or other guidance.

#### ***4.2.4.1 Selected Regulations and Policies***

Provisions of ANILCA may influence the determination of a minimum requirements analysis for administrative actions in wilderness. The three federal agencies that manage wilderness in Alaska have different regulations and policies. Alaska-specific regulations and policies include:

- NPS Management Policies, Chapter 6, Wilderness Preservation and Management.
- Forest Service Manual Alaska Region Chapter 2320 Wilderness Management
- Fish and Wildlife Service Manual, 610 FW 1-5
- 43 CFR Part 36 regulations (all Interior agencies)
- 36 CFR Part 13 regulations (National Park Service)
- 50 CFR Part 36 regulations (Fish and Wildlife Service)
- Master Memorandums of Understanding and other interagency agreements

The interagency MRDG, including Overview, Instructions, and Worksheets, is maintained by the Arthur Carhart National Wilderness Training Center in Missoula, Montana. The website is: <http://www.wilderness.net/MRA>

## **5.0 WILDERNESS AREAS IN ALASKA**

### **5.1 NATIONAL PARK SERVICE**

#### **Kobuk Valley National Park**

Kobuk Valley Wilderness

#### **Noatak National Preserve**

Noatak Wilderness

#### **Gates of the Arctic National Park and Preserve**

Gates of the Arctic Wilderness

#### **Denali National Park and Preserve**

Denali Wilderness

#### **Lake Clark National Park and Preserve**

Lake Clark Wilderness

#### **Wrangell-Saint Elias National Park and Preserve**

Wrangell-St. Elias Wilderness

#### **Glacier Bay National Park and Preserve**

Glacier Bay Wilderness

## **Katmai National Park and Preserve**

Katmai Wilderness

## **5.2 FISH AND WILDLIFE SERVICE**

### **Alaska Maritime National Wildlife Refuge**

Aleutian Islands Wilderness

Bering Sea Wilderness

Bogoslof Wilderness

Chamisso Wilderness

Forrester Island Wilderness

Hazy Islands Wilderness

Saint Lazaria Wilderness

Semidi Wilderness

Simeonof Wilderness

Tuxedni Wilderness

Unimak Wilderness

### **Arctic National Wildlife Refuge**

Mollie Beattie Wilderness

### **Becharof National Wildlife Refuge**

Becharof Wilderness

### **Innoko National Wildlife Refuge**

Innoko Wilderness

### **Izembek National Wildlife Refuge**

Izembek Wilderness

### **Kenai National Wildlife Refuge**

Kenai Wilderness

### **Koyukuk National Wildlife Refuge**

Koyukuk Wilderness

### **Selawik National Wildlife Refuge**

Selawik Wilderness

### **Togiak National Wildlife Refuge**

Togiak Wilderness

### **Yukon Delta National Wildlife Refuge**

Andreafsky Wilderness

Nunivak Wilderness

## **5.3 FOREST SERVICE**

Tongass National Forest

Chuck River Wilderness

Coronation Island Wilderness

Endicott River Wilderness

Karta River Wilderness

Kootznoowoo Wilderness

Kuiu Wilderness

Maurille Islands Wilderness

Misty Fjords National Monument Wilderness  
Petersburg Creek-Duncan Salt Chuck Wilderness  
Pleasant/Lemurier/Inian Islands Wilderness  
Russell Fjord Wilderness  
South Baranof Wilderness  
South Etolin Wilderness  
South Prince of Wales Wilderness  
Stikine-LeConte Wilderness  
Tebenkof Bay Wilderness  
Tracy Arm-Fords Terror Wilderness  
Warren Island Wilderness  
West Chichagof-Yakobi Wilderness  
Chugach National Forest  
Nellie Juan-College Fiord Wilderness Study Area<sup>4</sup>

## 6.0 ACKNOWLEDGEMENTS

Members of the Minimum Requirements Working Group for Alaska who worked on the original 2006 document included representatives from the US Fish and Wildlife Service, National Park Service, USDA Forest Service, the Alaska Department of Fish and Game and the State of Alaska ANILCA Implementation Program.

Judy Alderson, National Park Service  
Dick Anderson, National Park Service  
Brian Anderson, US Fish & Wildlife Service  
Marti Marshall, USDA Forest Service  
Trish Clabaugh, USDA Forest Service  
Sally Gibert, State of Alaska, ANILCA  
Susan Magee, State of Alaska, ANILCA  
Tina Cuning, AK Dept. of Fish & Game  
George Weekley, AK Dept. of Fish & Game

We would also like to thank the reviewers of the document, including wilderness managers, state and federal resource managers and specialists, and the Department of Interior solicitors and Department of Agriculture Office of General Counsel, for their valued input towards the final product.

The 2016 revision was written by Karen Lindsey at the Arthur Carhart National Wilderness Training Center and reviewed and edited by the following:

---

<sup>4</sup> The Chugach National Forest Revised Land and Resource Management Plan and Forest Service Manual Alaska R-10 supplement 2320.3 requires the Forest Service to manage the Nellie Juan-College Fiords Wilderness Study Area to maintain wilderness character until Congress acts on designation.

Bill Overbaugh, BLM  
Bill Tremblay, FS  
Roger Kaye, FWS  
Adrienne Lindholm, NPS