



**A Briefing Paper to the Interagency Wilderness Steering Committee**  
**Developing Consistent Wilderness Regulations**

Developed 27 May 2014 by Carhart Center staff and updated 13 December 2015 by Roger Semler

**Issue:** Inconsistencies in the wilderness regulations between the four wilderness managing agencies causes confusion among wilderness managers charged with managing wilderness in accordance with the law and the visiting public who may be subject to a penalty if regulations are violated.

**Background:** The National Wilderness Preservation System (NWPS) is an interagency system consisting of wilderness units designated by the Wilderness Act of 1964 and subsequent designating legislation. These units are managed by the four main land management agencies, the Bureau of Land Management (BLM), the Forest Service (FS), the National Park Service (NPS), and the U.S. Fish and Wildlife Service (FWS). Published regulations for managing wilderness in the NWPS currently exist for the BLM (2000), FS (2002), and FWS (1971); the NPS has not yet published regulations, but are having discussions about doing so in the near future.

The Code of Federal Regulations is based on statutory authority and spells out in further detail how the managing agencies interpret the law. Although all four agencies manage designated wilderness under the authority of the same law, the Wilderness Act of 1964, the published regulations differ in content and format. Some differences are to be expected because there may be additional statutory authorities that are specific to each of the agencies. Here is a partial list of inconsistencies gathered from a brief review:

- Regulations cover the same information from agency to agency, but are presented using different terminology, definitions, section headings and order (see table below).
- Some topics areas are not addressed in all regulations. (e.g. BLM includes a “Penalties” section for violations of the regulations, but the FS and FWS do not.)
- Some content is addressed in different parts (numbered sections) in the CFR. (e.g. BLM and FWS include prohibitions in the same part as all of the other regulations, but the FS has a separate part for this.)
- The detail for individual topics and the style and tone of the writing varies widely between the agencies’ regulations. (e.g. the scope and content of common definitions are very different.)
- Some regulations are presented in a question and answer format and others are in a statement format.

AGENCY	CURRENT REGULATIONS	PROPOSED REGULATIONS
BLM	43 CFR 6301 – 6305, December 2000	43 CFR 19 Wilderness Preservation
FWS	50 CFR 35, December 1971	
FS	36 CFR 228, 261, and 293, July 2002	
NPS	36 CFR Parts 1, 2, 3, 4, 5, 7 (July 2006)	
DOI	43 CFR 19, date unknown, 1966?	

**Proposal:** Replace 5 existing and proposed wilderness regulations with 1 that can consistently be applied across all federal agencies per the table below which is simply an expanded version of the table above.

AGENCY	CURRENT REGULATIONS	PROPOSED REGULATIONS - DRAFT
BLM	<u>43 CFR 6301 – 6305, December 2000</u> <ul style="list-style-type: none"> <li>• <b>6301 Introduction</b> <ul style="list-style-type: none"> <li>○ 6301.1 Purpose</li> </ul> </li> </ul>	43 CFR 19 Wilderness Preservation <b>Subpart A – National Wilderness Preservation</b>

	<ul style="list-style-type: none"> <li>○ 6301.3 What is a BLM wilderness area?</li> <li>● <b>6302 Use of Wilderness Areas, Prohibited Acts, and Penalties</b> <ul style="list-style-type: none"> <li>○ 6302.11 How may I use wilderness areas?</li> <li>○ 6302.12 When do I need an authorization and to pay a fee to use a wilderness area?</li> <li>○ 6302.15 When and how may I collect or disturb natural resources such as rocks and plants?</li> <li>○ 6302.16 When and how may I gather scientific information about resources in BLM wilderness?</li> <li>○ 6302.17 When may I use a wheelchair in wilderness?</li> <li>○ 6302.19 When may BLM close or restrict use of wilderness areas?</li> <li>○ 6302.20 What is prohibited in wilderness?</li> </ul> </li> <li>● <b>6303 Administrative and Emergency Functions</b> <ul style="list-style-type: none"> <li>○ 6303.1 How does BLM carry out administrative and emergency functions?</li> </ul> </li> <li>● <b>6304 Other Uses Specifically Addressed by the Wilderness Act</b> <ul style="list-style-type: none"> <li>○ 6304.21 What special provisions cover aircraft and motorboat use?</li> <li>○ 6304.23 What special provisions apply to mineral leasing and material sales?</li> <li>○ 6304.24 What special provisions apply to water and power resources?</li> <li>○ 6304.25 What special provisions apply to livestock grazing?</li> </ul> </li> <li>● <b>6305 Access to State and Private Lands or Valid Occupancies</b> <ul style="list-style-type: none"> <li>○ 6305.10 How will BLM allow access to State and private lands within wilderness?</li> <li>○ 6305.11 What alternatives to granting access will BLM consider in cases of State and private inholdings?</li> <li>○ 6305.20 How will BLM allow</li> </ul> </li> </ul>	<p><b>System</b></p> <ul style="list-style-type: none"> <li>▪ <b>19.1 Authority</b></li> <li>▪ <b>19.2 Purpose and Scope</b></li> <li>▪ <b>19.3 Objectives</b></li> <li>▪ <b>19.4 Definitions</b></li> <li>▪ <b>19.5 Prohibitions</b></li> <li>▪ <b>19.6 Violations and Penalties</b></li> <li>▪ <b>19.7 Public Use</b></li> <li>▪ <b>19.8 Administrative Use</b> <ul style="list-style-type: none"> <li>○ Minimum Requirement Analysis</li> <li>○ Scientific Activity</li> <li>○ Emergency Activity</li> </ul> </li> <li>▪ <b>19.9 Special Provisions</b> <ul style="list-style-type: none"> <li>○ Control of Fire, Insects, and Disease</li> <li>○ Mineral Leases and Claims</li> <li>○ Water and Power Facilities</li> <li>○ Livestock Grazing</li> <li>○ Commercial Services</li> <li>○ Water Rights</li> <li>○ Wildlife and Fish Jurisdiction</li> </ul> </li> <li>▪ <b>19.10 Access to State and Private Inholdings</b></li> <li>▪ <b>19.20 Access to Valid Mining Claims and Other Occupancies</b></li> <li>▪ <b>19.21 Gifts, Bequests, and Contributions</b></li> </ul> <p><b>Subpart B – Sections Specific to an Agency</b></p> <ul style="list-style-type: none"> <li>▪ <b>19.22 BLM</b></li> <li>▪ <b>19.23 FWS</b></li> <li>▪ <b>19.24 FS</b> <ul style="list-style-type: none"> <li>○ Boundary Waters Canoe Area</li> </ul> </li> <li>● <b>19.25 NPS</b></li> </ul> <p><b>SUMMARY OF CHANGES:</b></p> <ol style="list-style-type: none"> <li><b>1. 3 CFR Titles to 1 Title</b></li> <li><b>2. 10 parts to 1 part</b></li> <li><b>3. 58 “sections” to 25 “sections”</b></li> </ol>
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	<p>access to valid mining claims or other valid occupancies within wilderness?</p> <ul style="list-style-type: none"> <li>○ 6305.30 What are the steps BLM must take in issuing an access authorization to valid occupancies?</li> </ul>	
FWS	<p><u>50 CFR 35, December 1971</u></p> <ul style="list-style-type: none"> <li>● <b>35.1 Definitions</b></li> <li>● <b>35.2 Objectives</b></li> <li>● <b>35.3 General Regulations</b></li> <li>● <b>35.4 Appropriations and Personnel</b></li> <li>● <b>35.5 Commercial Enterprises, Roads, Motor Vehicles, Motorized Equipment, Motorboats, Aircraft, Mechanical Transport, Structures, and Installations</b></li> <li>● <b>35.6 Public Use</b></li> <li>● <b>35.7 Control of Wildfires, Insects, Pest Plants, and Disease</b></li> <li>● <b>35.8 Forest Management</b></li> <li>● <b>35.9 Livestock Grazing</b></li> <li>● <b>35.10 Controlled Burning</b></li> <li>● <b>35.11 Scientific Uses</b></li> <li>● <b>35.12 Water Rights</b></li> <li>● <b>35.13 Access to State and Private Lands</b></li> <li>● <b>35.14 Special Regulations (individual wilderness units)</b></li> </ul>	
FS	<p><u>36 CFR 228 (1974), 261, and 293, July 2002</u></p> <ul style="list-style-type: none"> <li>● <b>228 Minerals</b> <ul style="list-style-type: none"> <li>○ 228.15 Operations Within National Forest Wilderness</li> </ul> </li> <li>● <b>261 Prohibitions, Subpart A – General Prohibitions</b> <ul style="list-style-type: none"> <li>○ 261.16 National Forest Wilderness</li> </ul> </li> <li>● <b>261 Prohibitions, Subpart B – Prohibitions in Areas Designated by Order</b> <ul style="list-style-type: none"> <li>○ 261.57 National Forest Wilderness</li> </ul> </li> <li>● <b>293 Wilderness – Primitive Areas</b> <ul style="list-style-type: none"> <li>○ <b>293.1 Definitions</b></li> <li>○ <b>293.2 Objectives</b></li> <li>○ <b>293.3 Control of Uses</b></li> <li>○ <b>293.4 Maintenance of Records</b></li> <li>○ <b>293.5 Establishment, Modification, or Elimination</b></li> <li>○ <b>293.6 Commercial Enterprises,</b></li> </ul> </li> </ul>	

	<p><b>Roads, Motor Vehicles, Motorized Equipment, Motorboats, Aircraft, Aircraft Landing Facilities, Airdrops, Structures, and Cutting of Trees</b></p> <ul style="list-style-type: none"> <li>○ <b>293.7 Grazing of Livestock</b></li> <li>○ <b>293.8 Permanent Structures and Commercial Services</b></li> <li>○ <b>293.10 Jurisdiction Over Wildlife and Fish</b></li> <li>○ <b>293.11 Water Rights</b></li> <li>○ <b>293.12 Access to Surrounded State and Private Lands</b></li> <li>○ <b>293.13 Access to Valid Occupancies</b></li> <li>○ <b>293.14 Mineral Leases and Mineral Permits</b></li> <li>○ <b>293.15 Gathering Information About Resources Other Than Minerals</b></li> <li>○ <b>293.16 Special Provisions Governing the Boundary Waters Canoe Area Wilderness</b></li> <li>○ <b>293.17 National Forest Primitive Areas</b></li> </ul>	
NPS	<p><b><u>36 CFR Part 1 (General Provisions)</u></b></p> <ul style="list-style-type: none"> <li>● <b>1.5 – Closures and Public Use Limits (authority for Superintendent’s Compendium park-specific regulations)</b></li> </ul> <p><b><u>36 CFR Part 2 (Resource Protection, Public Use and Recreation)</u></b></p> <ul style="list-style-type: none"> <li>● <b>2.12 – Audio Disturbances (motorized equipment)</b></li> <li>● <b>2.17 – Aircraft and Air Delivery (landing of aircraft)</b></li> <li>● <b>2.18 – Snowmobiles (motorized equipment)</b></li> <li>● <b>2.22 – Property (structures and installations)</b></li> </ul> <p><b><u>36 CFR Part 3 (Boating and Water Use Activities)</u></b></p> <ul style="list-style-type: none"> <li>● <b>3.8 – Vessel Operations (motorboats)</b></li> <li>● <b>3.9 – Personal Watercraft (PWC) Operation (motorboats)</b></li> <li>● <b>3.19 – Operation of Submersibles (motorboats)</b></li> </ul> <p><b><u>36 CFR Part 4 (Vehicles and Traffic Safety)</u></b></p> <ul style="list-style-type: none"> <li>● <b>4.10 – Travel on Park Roads and</b></li> </ul>	

	<p><b>Designated routes (motor vehicles)</b>  <b>4.30 – Bicycles (mechanical transport)</b>  <b>36 CFR Part 5 (Commercial and Private Operations)</b></p> <ul style="list-style-type: none"> <li>• <b>5.3 – Business Operations (commercial enterprise)</b></li> </ul> <p><b>36 CFR Part 7 (Special Regulations, Areas of the National Park System)</b></p> <p><i>Note: The aforementioned regulations do not specifically reference Wilderness (excepting 36 CFR 4.30), but effectively regulate Wilderness Act prohibited uses (noted in parenthesis).</i></p>	
DOI	<p><u>43 CFR 19 Wilderness Preservation, date unknown, 1966?</u></p> <ul style="list-style-type: none"> <li>• Subpart A – National Wilderness Preservation System <ul style="list-style-type: none"> <li>○ <b>19.1 Scope and Purpose</b></li> <li>○ <b>19.2 Definitions</b></li> <li>○ <b>19.3 Review of Roadless Areas and Roadless Islands</b></li> <li>○ <b>19.4 Liaison With Other Governmental Agencies and Submission of Views by Interested Persons</b></li> <li>○ <b>19.5 Hearing Procedures</b></li> <li>○ <b>19.6 Regulations Respecting Administration and Uses of Wilderness Areas Under Jurisdiction of the Secretary</b></li> <li>○ <b>19.7 Private Contributions and Gifts</b></li> <li>○ <b>19.8 Prospecting, Mineral Locations, Mineral Patents, and Mineral Leasing within National Forest Wilderness</b></li> </ul> </li> <li>• Subpart B – [Reserved]</li> </ul>	

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