



INHOLDING ACCESS

Inholding Access in Subsequent Legislation

The following comparison of agency regulations and policy concerning the access to inholdings is from “Inholdings within Wilderness: Legal Foundations, Problems, and Solutions” by Randy Tanner. It was printed in 2002 in the *International Journal of Wilderness*, v.8, n.3. The entire article can be found in this toolbox in the Resources and References section, or at: <http://www.wilderness.net/library/documents/Tanner1.pdf>.

Table 3—Agency Regulations and Policies Concerning Privately Owned and State-Owned Land Inholdings in Wilderness Areas.	
Federal Agency Regulation or Policy	Regulation or Policy Language
Bureau of Land Management (43 CFR 6305.10)	“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 existed on the date Congress designated the area surrounding the inholding as wilderness, and (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.”
U.S. Fish and Wildlife Service (50 CFR 35.13)	“Rights of States or persons and their successors in interest, whose land is surrounded by a wilderness unit, will be recognized to assure adequate access to that land. Adequate access is defined as the combination of modes and routes of travel which will best preserve the wilderness character of the landscape. Mode of travel designated shall be reasonable and consistent with accepted, conventional, contemporary modes of travel in said vicinity. Use will be consistent with reasonable purposes for which such land is held.”
U.S. Forest Service (36 CFR 251.110 [c])	“... as appropriate, landowners shall be authorized such access as the authorized officer deems to be adequate to secure them the reasonable use and enjoyment of their land.”
National Park Service (Director’s Order #53 §10.4)	“Except as specifically provided by law, there will be no permanent road, structure or installation within any study, proposed, recommended, or designated wilderness area. This includes the installation of utilities. (See the Wilderness Act 16 USC 23). The NPS will not issue any new right-of-way permits or widen or lengthen any existing rights-of-way in study, proposed, recommended, or designated wilderness areas.” (At present, NPS policies target only right-of-ways to wilderness inholdings.)
Department of Interior (USFWS, NPS, & BLM) Regulations for Wilderness inholdings in Alaska (43 CFR 36.10)	(a) This section sets forth the procedures to provide adequate and feasible access to inholdings within areas in accordance with section 1110(b) of ANILCA. As used in this section, the term: (1) Adequate and feasible access means a route and method of access that is shown to be reasonably necessary and economically practicable but not necessarily the least costly alternative for achieving the use and development by the applicant on the applicant’s nonfederal land or occupancy interest.

Further details on BLM and Forest Service regulations and policy can be found elsewhere in this Toolbox.

It is clear from this list that the four agencies have various interpretations of the phrases “adequate access,” “reasonable regulations,” and “feasible access” that is found in various laws.

The extent to which these interpretations have been tried in legal cases is examined in the Relevant Case Law section of this Toolbox.