

FOREST SERVICE POLICY

<http://fsweb.wo.fs.fed.us/directives/fsm/2300/>

2320.2 – Objectives

3. Minimize the impact of those kind of uses and activities generally prohibited by the Wilderness Act, but specifically excepted by the Act or subsequent legislation.

2320.6 - The Wilderness Management Model and the Wilderness Act

Where a choice must be made between wilderness values and visitor or any other activity, preserving the wilderness resource is the overriding value. Economy, convenience, commercial value, and comfort are not standards of management or use of wilderness. Because uses and values on each area vary, management and administration must be tailored to each area. Even so, all wilderness areas are part of one National Wilderness Preservation System and their management must be consistent with the Wilderness Act and their establishing legislation.

This portion of Forest Service policy indicates two key concepts of wilderness management related to outfitters and guides.:

- 1) The dominant decision criteria for management of any activity is preservation of the wilderness resource.
- 2) Providing for commercial value (opportunities for outfitters and guides to operate in wilderness or the profitability of commercial operations) is not the standard by which managers will make decisions in wilderness. In other words, the existence of a commercial opportunity in wilderness does not, by itself, support the need for commercial operations in wilderness. However, even though FS policy does not mean that the profitability of commercial operations must be ensured, where there is a wilderness based need for a commercial use, the FS must work to meet the needs of the desirable commercial use, including the need for profit.

2323.1 - Management of Recreation

2323.11 - Objectives

1. Provide, consistent with management of the area as wilderness, opportunities for public use, enjoyment, and understanding of the wilderness, through experiences that depend upon a wilderness setting.

2. Provide outstanding opportunities for solitude or a primitive and unconfined type of recreation.

2323.12 - Policy

1. Maximize visitor freedom within the wilderness. Minimize direct controls and restrictions. Apply controls only when they are essential for protection of the wilderness resource and after indirect measures have failed.

2. Use information, interpretation, and education as the primary tools for management of wilderness visitors.

3. Manage for recreation activities that are dependent on the wilderness environment so that a minimum of adaptations within wilderness are necessary to accommodate recreation.

4. Consistent with management as wilderness, permit outfitter/guide operations where they are necessary to help segments of the public use and enjoy wilderness areas for recreational or other wilderness purposes.

The excerpts above from Forest Service policy implement the Wilderness Act, subsequent legislation, and regulations by interpreting the legal direction. For outfitter and guide operations, several points can be made:

- 1) Recreation activities, including those provided by outfitters and guides, are appropriate in wilderness only if they are wilderness dependent. By inference, non-wilderness dependent activities may be provided for or may be experienced elsewhere on the national forest.
- 2) The FS policy refers to “wilderness experience” and “wilderness setting” (2323.11, 2323.12 #3) to define what wilderness dependent means. In practice, wilderness managers typically interpret “wilderness dependent” to mean activities dependent on the wilderness resource (as defined in the 1964 Act, Sections 2 (a) and (c)).
- 3) Recreation should not be defined as wilderness dependent if it can occur in any setting that has certain attributes (glaciated peaks, unroaded areas for endurance run routes, etc.), which are not part of the wilderness resource as defined by the 1964 Act. The term ‘wilderness dependent’ is tied to the wilderness resource, not to any specific recreational activity or recreational setting simply because they can occur within wilderness.
- 4) The criteria for considering whether to permit outfitter and guide operations in wilderness is that they “are necessary for activities which are proper for realizing the recreational or other wilderness purposes” of the Act.

Additional, more specific policy:

2323.13g - Outfitter and Guide Operations. Address the need for and role of outfitters in the forest plan. The plan must address the type, number, and amount of recreation use that is to be allocated to outfitters. Ensure that outfitters provide their service to the public in a manner that is compatible with use by other wilderness visitors and that maintains the wilderness resource.

Approve only temporary structures and facilities for outfitter and guide operations necessary to properly meet their public service in a manner compatible with the wilderness environment. These structures shall be located away from main trails, streams, lakes, key interest features, and non-outfitted public use areas. Specify in forest plans, subsequent implementation schedules, or special use permits what improvements are permitted and their locations.

Ensure that outfitters remove all equipment and material, other than structures authorized to remain such as dismantled structure frames and poles made of native material, from the wilderness at the end of each season. Do not permit caches, and phase out existing ones on a planned basis. Do not allow permanent improvements such as cabins, toilet buildings, or tent frames with floors and sides. Further direction for managing outfitter and guides operations is found in section 2324.3, FSM 2343, FSM 2700 and FSH 2309.19, the Wilderness Management Handbook.

The excerpt above, from Forest Service policy, explains how managers are to determine the need for outfitters and guides and when it is to be done. This task is typically accomplished through an 'Outfitter and Guide Needs Assessment'. The needs assessment forms the basis for a possible amendment to the current forest plan. For example, the needs assessment could trigger the need for a change in forest plan direction if it indicates that there is a reason to change in the level of commercial activity allowed in a wilderness.

The purpose of the 'Needs Assessment' is to determine if there are wilderness management objectives that outfitters and guides could help achieve (if they "are necessary for activities which are proper for realizing the recreational or other wilderness purposes" of the Act). If so, criteria are established for permitting existing and/or new outfitter and guide operations. The criteria must not only be dependent on the wilderness resource but also conform to the purposes of wilderness. Common criteria include, but are not limited to, items like safety of visitors, education of visitors, furnishing equipment, expertise, or method of access necessary for visitors to experience wilderness, assisting with volunteer service trips, or serving populations that are underrepresented in the use of wilderness.

If a visitor use capacity estimate (see FSM 23231.14) has not been completed for the wilderness, it should be done and utilized, along with the needs assessment, to make determination on the amount of use to be allocated to outfitters and guides.

2323.14 - Visitor Management. Plan and manage public use of wilderness in such a manner that preserves the wilderness character of the area. Provide for the limiting and distribution of visitor use according to periodic estimates of capacity in the forest plan. Visitor management direction for protecting wildlife and fish resources is in FSM 2323.3 and FSH 2309.19.

This portion of Forest Service policy confirms the direction from the Wilderness Act that public use of wilderness is to be managed so as not to impair wilderness character. It also states that limits on visitor use are to be based on a determination of carrying capacity as prescribed in the forest plan. (In practice, a capacity determination includes social, biological, and physical components and can be accomplished using a Limits of Acceptable Change type of planning process.) Public use includes that portion of visitors who utilize the services of outfitters and guides and therefore a capacity determination is a required part of the wilderness planning and commercial services needs assessment processes. It helps determine the "extent necessary" for commercial services.

2323.83 – Studies and Management (Cultural and Historic Resources)

Interpretation of cultural resources located in wilderness shall be done outside the wilderness. Verbal interpretive services by qualified wilderness rangers, volunteers, or permitted guides are acceptable.

FSH 2709.11 – Special Uses Handbook , WO Amendment 2008-2, Effective 9-17-08
<http://fsweb.wo.fs.fed.us/directives/fsh/2709.11/>

Note – The following are excerpts that are specific to wilderness. See the Handbook for other guidance that applies to all national forest lands, including designated wilderness areas.

41.53c - Policy

For related direction, see FSM 2340.3 and 2703.

3. Do not authorize any development, improvements, or installations in wilderness areas for the purpose of convenience to the holder or the holder's clients. Do not authorize any caches in wilderness areas. Do not authorize permanent structures, improvements, or installations in wilderness areas unless they are necessary to meet minimum requirements for administration of the area for the purposes of the Wilderness Act (16 U.S.C. 1133c).

41.53e - Needs Assessment, Resource Capacity Analysis, and Allocation of Use

Allocate outfitting and guiding use in a project decision pursuant to 36 CFR Part 215 or in a programmatic decision pursuant to a wilderness plan, wild and scenic river plan, or plan for another type of congressionally designated area. Follow the direction in section 41.53e, paragraphs 1, 2, and 3, as applicable.

1. Conduct a needs assessment to determine the public or agency need for authorized outfitting and guiding activities. A needs assessment may be conducted as part of public scoping during a NEPA analysis. Consider accessibility, size of the area, difficulty of the terrain, current levels of outfitting and guiding, and demographics of visitors to the area.

- a. When conducting a needs assessment for outfitting and guiding activities in a wilderness area, assess whether these activities are necessary for realizing the recreational or other wilderness purposes of the area and the extent to which the activities may be authorized consistent with maintaining the wilderness character of the area.
- b. Review previous needs assessments when reauthorizing use to ensure that they remain relevant to current and projected use trends, and update them if necessary.

2. When monitoring demonstrates that impacts associated with use may exceed desired conditions, conduct a resource capacity analysis to assess the amount of use and types of activities that may be conducted without detrimental environmental and associated impacts. The resource capacity analysis may be conducted at a programmatic level or at a project level to address specific activities or geographical areas. In analyzing resource capacity, consider:

- a. The applicable land management plan and other applicable programmatic and project decisions.
- b. Inventoried conditions.
- c. Current visitor use and visitor use trends (amount, type, length of stay, and group size).
- d. Correlation of visitor use to plan guidance and inventoried conditions.

- e. The results of management actions, such as vegetation treatments, watershed rehabilitation, and findings from monitoring.
3. Determine the allocation of use between outfitted and guided and non-outfitted and guided visitors. Further determine the allocation of outfitting and guiding use between priority and temporary use. Distribute the allocation for temporary use pursuant to section 41.53k, paragraph 2d. In allocating between priority and temporary use, consider:
- a. Visitor needs for outfitting and guiding services, based on visitor preference surveys, use records, and trends.
 - b. Type, location, and amount of outfitting and guiding services that would help meet agency objectives.
 - c. Current levels of outfitting and guiding use and projected growth.

Other Guidance

Regulations – 36 CFR 251.54, Proposal and Application Requirements and Procedures

This section provides the direction, standards, and screens with which to evaluate applications and proposals for potential outfitter and guide operations.