DEFINING MINIMUM REQUIREMENTS FOR ADMINISTERING WILDERNESS AREAS WITHIN THE CALIFORNIA DESERT

INTRODUCTION

As directed by Congress, it is the intent of the Federal Land Managers of the California Desert to secure for the American people of present and future generations an enduring resource of wilderness in the wilderness areas designated through the California Desert Protection Act of 1994. To ensure these areas are managed as directed by Congress, Section 4(c) of the Wilderness Act prohibits nine activities on those wilderness lands. Subject to specific exceptions, the Wilderness Act stipulates that there will be no commercial enterprise, no permanent road, 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 wilderness area. Actions that do not incorporate any of these nine Wilderness Act prohibitions are beyond the scope of this Annex.

The Wilderness Act provides a major exception to seven of the nine prohibitions listed in Section 4(c) of the Act. This Section states that " ... *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 ...*" This statutory direction is hereafter called the "**minimum requirements for administration**" exception. The "minimum requirements for administration" exception cannot be used to allow commercial enterprise nor a permanent road. A backcountry patrol station, fire lookout, radio repeater, or chainsaw may be allowed in a wilderness if such use is determined, through a "**Minimum Requirement Analysis,**" to be the "minimum requirements for administration" for the wilderness purpose.

This Annex is intended to clarify management direction and reduce disparity between Federal agencies when applying the "minimum requirements for administration" exception in managing wilderness areas. The decision to approve or deny administrative activities or uses that are the "minimum requirements for administration" remains with each unit manager. However, the Desert Managers,

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through collective communication, will build on a foundation for quality decisions that protect both the physical resources and the wilderness character of the area.

This Annex provides general guidance in determining the use of the "minimum requirements for administration" exception for activities and uses within wilderness. Other annexes, adopted by the Desert Managers, address more specifically the use of the "minimum requirements for administration" determinations for specific circumstances.

The "minimum requirements for administration" exception of the Wilderness Act applies only to agency administrative activities for wilderness. Agency activities include such things as using motorized equipment to construct trails, issuing research permits, granting contracts for facilities in wilderness, signing of MOUs for actions normally prohibited in wilderness, etc. Part A of this Annex provides the direction for managing under these circumstances and applying the "Minimum Requirement Analysis."

For activities by those who possess "existing private rights" in wilderness (e.g., a right-of-way holder), for activities specifically provided by the Wilderness Act, or for activities specifically provided by the California Desert Protection Act, Federal agencies should cooperatively seek to administer for those rights using "minimum tool" concepts. The prohibitions found in Section 4(c) of the Wilderness Act (listed previously) and the "minimum requirements for administration" exception do not apply to "existing private rights" nor to "authorized uses" within designated wilderness. Nonetheless, Federal Land Managers should attempt, when administering for such rights or uses, to minimize impacts on the wilderness resource. Part B of this Annex provides direction for applying the "minimum tool" concept and for using a "Minimum Tool Analysis" (distinct from the "Minimum Requirement Analysis" described in Part A) to administer authorized uses and accommodate existing private rights.

PART A. PRINCIPLES FOR AGENCY ADMINISTRATIVE ACTIVITIES

Part A addresses the use of the Section 4(c) "minimum requirements for administration" exception and the use of the "Minimum Requirement Analysis." This exception authorizes Federal Land Managers to employ temporary roads, use

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motor vehicles, use motorized equipment or motorboats, land aircraft, employ mechanical transport, and create structures or installations **only if** such activities or uses are "... *necessary to meet minimum requirements for the administration of the area* ***for the purpose*** [emphasis added] *of this* [Wilderness] *Act* ..." It is therefore imperative that Federal Land Managers ensure that application of this exception is for that purpose. The purpose of wilderness, as defined in Section 2(a) of the Act, is "... *to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States ... leaving no lands designated for preservation and protection* ***in their natural condition*** [emphasis added] ..." Furthermore, wilderness is defined in Section 2(c) of the Act as being "... *an area where the earth and its community of life are untrammeled 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* ..." Each Federal Land Manager must apply the following principles when employing the "minimum requirements for administration" exception for agency administrative activities.

1. Each Federal Land Manager who manages wilderness is responsible for administering the wilderness area for the purpose of the Wilderness Act.

2. Each Federal Land Manager is responsible for ensuring that any of the seven prohibited activities or uses occur only when necessary to accomplish the "minimum requirements for administration" of the area as wilderness. (Note: this would not apply for exceptions being made under special provisions in the 1964 Wilderness Act or CDPA or for existing private rights).

3. If a proposed administrative action would use one or more of the seven prohibited activities or uses identified in Section 4(c) of the Wilderness Act, a "Minimum Requirement Analysis" must be completed. This analysis will include a two step process:

   a. Step one: An analysis of whether the "minimum requirements for administration" exception is appropriate, that is, whether the action is indeed an agency action necessary for the minimum administration of the wilderness area.

b. Step two: If the action is necessary for wilderness administration, an analysis of whether the techniques used to accomplish the action are the least degrading to wilderness characteristics.

(Note: this "Minimum Requirement Analysis" would not apply for exceptions being made under special provisions in the 1964 Wilderness Act or CDPA or for existing private rights).

4. If a proposed agency activity is necessary for the administration of the wilderness area for the purpose of wilderness (defined above) and involves one or more of the normally prohibited actions in 4(c) of the Wilderness Act, then the "Minimum Requirement Analysis" must determine and evaluate, at a minimum:

a. Whether the proposed agency activity is consistent with existing statutes, regulations, policies, and plans;

b. Whether the proposed agency activity would involve any prohibited use listed in Section 4(c) of the Wilderness Act;

c. Whether the proposed agency activity involving a prohibited act could be reasonably accomplished outside of the wilderness area(s); and

d. Whether the proposed agency activity could be reasonably accomplished without use of the action(s) prohibited by the Wilderness Act.

5. In determining what is reasonable, the Federal Land Manager will:

a. Identify alternatives that do not involve any of the prohibited acts in Section 4(c) of the Wilderness Act;

b. Not be guided solely by cost, convenience, or efficiency, but may consider time and cost effectiveness;

c. Analyze impacts on the wilderness characteristics (e.g., naturalness, opportunities for solitude or primitive and unconfined recreation, and other special features) and resources of each alternative, and;

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d. Determine whether the proposed agency activity, or alternatives not involving any of the prohibited acts, could safely and feasibly accomplish both the objective of the proposed activity and the objective of wilderness management.

6. If the decision involves a normally prohibited act under section 4(c), the accompanying "Minimum Requirement Analysis" should contain a clear and compelling justification for use of the prohibited act(s) necessary to implement the decision and necessary to manage the wilderness area.

7. The "Minimum Requirement Analysis" should specify the conditions that will mitigate adverse effects of the action(s) on wilderness characteristics.

8. A Federal Land Manager may prepare a programmatic document that covers a specific management activity involving a prohibited act in wilderness which recurs on a regular basis (e.g., maintenance of a defined hiking trail system using chainsaws).

9. Federal Land Managers should employ minimum impact or light-on-the-land management techniques in wilderness, even if the project (e.g., using low-level helicopter flights to corral burros) does not involve any of the prohibited acts at Section 4(c). Even though such actions are not specifically prohibited by the Wilderness Act and do not require a "minimum requirements administration" exception, agencies should still consider how best to accomplish the goal with minimal impacts to wilderness character.

10. Other Annexes address emergency situations provided for in law involving health and safety of persons and responses to fire and crimes in which prior analysis may not be feasible.

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PART B. PRINCIPLES FOR THE ADMINISTRATION OF AUTHORIZED USES AND ACCOMMODATION OF EXISTING PRIVATE RIGHTS

Part B addresses the administration of authorized uses provided for in the Wilderness Act and/or the California Desert Protection Act and addresses the accommodation of existing private rights. Authorized uses are summarized in Tables 1 and 2 of the *Principles for Wilderness Management in the California Desert*. Examples of existing private rights could include rights-of-way, valid mining claims, etc. While activities in connection with these authorized uses or existing private rights are not governed by the "minimum requirements for administration" exception to the prohibited acts, the Federal Land Manager will administer or accommodate for such activities to minimize impacts on the wilderness character and resource, and under the conditions prescribed for that activity in law and regulation. To minimize impacts on the wilderness characteristics, the following are the principles the Federal Land Manager must apply to ensure the appropriate "minimum tool" is determined.

1. Each Federal Land Manager who manages wilderness is responsible for administering authorized uses and accommodating existing private rights provided for in law.

2. Each Federal Land Manager who manages wilderness will ensure that the exercise of rights or authorized uses in wilderness, that require an action normally prohibited in Section 4(c) of the Wilderness Act, are carried out only after the Federal Land Manager issues an authorization (e.g., a permit).

3. Authorizations will be issued only after completing an "Minimum Tool Analysis." This analysis must consider:

   a. Whether the proposed use would involve any normally prohibited activity listed in Section 4(c) of the Wilderness Act;

   b. Whether the proposed use is specifically provided for in the Wilderness Act or in the California Desert Protection Act;

   c. Whether the proposed use is necessary for the conduct of the authorized use or for the exercise of the existing private right;

d. Whether the proposed use could be reasonably accomplished outside of the wilderness area(s); and

e. Whether the proposed use could be reasonably accomplished without use of the action(s) normally prohibited by the Wilderness Act.

4. Authorizations should contain reasonable provisions to reduce the impact on wilderness character. These provisions may include, for example, conditions on the travel routes, methods, means, or frequencies, conditions on the use by season, time of day, or duration, or conditions on the size or type of equipment, structure or installation. Such provisions shall be consistent with the expressed Congressional intent applicable to that activity.

5. Federal Land Managers should encourage the use of minimum impact or light-on-the-land management techniques within wilderness whenever possible.

SIGNATURES

Superintendent, Mojave National Preserve	8/27/98 DATE
Superintendent, Death Valley National Park	9/16/98 DATE
Superintendent, Joshua Tree National Park	9-8-98 DATE
Superintendent, Lake Mead National Rec. Area	9/3/98 DATE

District Manager, California Desert District	10-1-98 DATE
Greg Thomsen Field Manager, Ridgecrest Field Office	10/8/98 DATE
Field Manager, Barstow Field Office	8-27-98 DATE
Molly S. Brady Field Manager, Needles Field Office	10/27/98 DATE
Linda D. Hansen Field Manager, Palm Springs/South-Coast Field Office	10/29/98 DATE
Thomas L. Gale Field Manager, El Centro Field Office	10/29/98 DATE
Gail Acheson Field Manager, Yuma Field Office	11/10/98 DATE
Darrell E. Hewitt Field Manager, Lake Havasu Field Office	11/27/98 DATE

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U.S. Fish & Wildlife Service, Region One — DATE

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