

**The Special Provision of Grazing  
in the  
Wilderness Act of 1964  
(from Wilderness.Net)**

“The grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.”

*The Wilderness Act of 1964, Section 4(d)(4)(2)*

This simple sentence was the original sum of the Congressional direction to federal agencies for managing grazing in wilderness. (Boilerplate language in subsequent wilderness laws applies this provision by extension to all areas in the National Wilderness Preservation System.)

Yet the simplicity of this statement raises further questions about how this Congressional direction is to be implemented on the ground. The use of the word “shall” is clear – managers do not have the authority to choose whether or not grazing shall be permitted to continue. But is that true in all cases? What if natural conditions are being degraded by over-grazing? And what are “reasonable regulations”? Understandably, some early wilderness managers proscribed certain grazing permittee activities based on the prohibitions of motorized use and placement of structures found elsewhere in the Wilderness Act. Is it not “reasonable” to say grazing shall continue but the water trough and the windmill that fills it must be removed?

Congress first started answering these questions in 1977, with its House Report 95-620, and followed up in 1978, with House Report 95-1321. In 1979, Congress went into greater detail on its intent, issuing House Report 96-617, “decline[ing] to amend section 4(d)(4)(2) of the Wilderness Act, agreeing instead to reaffirm...the following nationwide guidelines and specific statements of legislative policy.” This Report accompanied the Colorado Wilderness Act of 1980 (passed as Public Law 96-560). Due to minor discrepancies with Senate language associated with the Central Idaho Wilderness Act of 1980 (P.L. 96-312), the House reissued their guidance with slight changes as House Report 96-1126. The entirety of that report, as well as implications of its interpretation, can be found elsewhere in this Toolbox.

In 1990, the House reissued this direction as House Report 101-405, Appendix A. It is this Report, accompanying the Arizona Desert Wilderness Act of 1990 (P.L. 101-628) that is most often cited in subsequent legislation. This report can be found elsewhere in this Toolbox, though its implications for management are no different from those of the earlier House Report.

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House Report 101-405 APPENDIX A. - GRAZING GUIDELINES

Section 4(d)(4)(2) of the Wilderness Act states: "the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture".

The legislative history of this language is very clear in its intent that livestock grazing, and activities and the necessary facilities to support a livestock grazing program, will be permitted to continue in National Forest wilderness areas, when such grazing was established prior to classification of an area as wilderness.

Including those areas designated in 1964 by the Wilderness Act, Congress has designated a large number of wilderness areas, including areas which are managed the Forest Service, Fish and Wildlife Service, and Bureau of Land Management. A number of these areas contain active grazing program, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress that the cited language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies.

To avoid any possible confusion, however, the Committee believes it would appropriate to reiterate the guidelines and policies (which have been set out previously in the Committee's Report on H.R. 5487 of the 96th Congress, House Report N. 96-617) that are to be utilized by BLM in implementing the relevant provisions of the Wilderness Act with respect to livestock grazing in the wilderness areas designated by this bill. It is the intention of the Committee that these guidelines and policies be considered in the overall context of the purposes and direction of the Wilderness Act of 1964 and this bill, and that they be promptly, fully, and diligently implemented and made available to Bureau of Land Management personnel at all levels and to all holders of permits for grazing in the wilderness areas designated by this bill.

The guidelines and policies are as follows:

1. There shall be no curtailments of grazing in wilderness areas simply because an area is, or has been designated as wilderness, nor should wilderness designations be used an excuse by administrators to slowly "phase out" grazing. Any adjustments in the numbers of livestock permitted to graze in wilderness areas should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.

It is anticipated that the number of livestock permitted to graze in wilderness would remain at the approximate levels at the time an area enters the wilderness system. If land management plans reveal conclusively that increased livestock numbers or animal unit months (AUMs) could be made available with no adverse impact on wilderness values such as plant communities, primitive recreation, and wildlife populations or habitat, some increases in AUMs may be permissible. This is not to imply, however, that wilderness lends itself to AUM or livestock increases and construction of substantial new facilities that might be appropriate for intensive grazing management in non-wilderness areas.

2. The maintenance of supporting facilities, existing in an area prior to its classification as wilderness (including fences, line cabins, water wells and lines, stock tanks, etc.), is permissible in wilderness. Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment. This may include, for example, the use of backhoes to maintain stock ponds, pickup trucks for major fence repairs, or specialized equipment to repair stock watering facilities. Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand, it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness, occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment. Such motorized equipment uses will normally only be permitted in those portions of a wilderness area where they had occurred prior to the area's designation as wilderness or are established by prior agreement.

3. The replacement or reconstruction of deteriorated facilities or improvements should not be required to be accomplished using "natural materials", unless the material and labor costs of using natural materials are such that their use would not impose unreasonable additional costs on grazing permittees.

4. The construction or new improvements or replacement of deteriorated facilities in wilderness is permissible if in accordance with these guidelines and management plans governing the area involved. However, the construction of new improvements should be primarily for the purpose of resource protection and the more effective management of these resources rather than to accommodate increased numbers of livestock.

5. The use of motorized equipment for emergency purposes such as rescuing sick animals or the placement of feed in emergency situations is also permissible. This privilege is to be exercised only in true emergencies, and should not be abused by permittees.

In summary, subject to the conditions and policies outlined in this report, the general rule of thumb on grazing

management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue. With respect to areas designated as wilderness prior to the date of this Act, these guidelines shall not be considered as a direction to reestablish uses where such uses have been discontinued.