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Wilderness: Overview, Management, and Statistics

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Summary

Congress enacted the Wilderness Act in 1964. This act created the National Wilderness Preservation System, reserved to Congress the authority to designate wilderness areas, and directed the Secretaries of Agriculture and of the Interior to review certain lands' potential wilderness designation. The act also designated 54 wilderness areas with 9 million acres of federal land. Congress began expanding the Wilderness System in 1968. As of July 6, 2022, there are 803 wilderness areas, totaling approximately 112 million acres, in 44 states and Puerto Rico. Numerous bills to designate additional wilderness areas and to expand existing ones have been introduced and considered in every Congress since the act's passage.

The Wilderness Act defined *wilderness* as an area of undeveloped federal land, among other criteria, but due to differing perceptions of wilderness and its purpose, it did not establish criteria or standards to determine whether an area should be so designated. In general, wilderness areas are undeveloped; commercial activities, motorized access, and roads, structures, and facilities are prohibited in wilderness areas. In response to conflicting demands, however, Congress has granted both general exemptions and specific exceptions to the general standards and prohibitions. Questions persist over the frequency and extent to which federal agencies must review the wilderness potential of their lands, and how those lands should be managed.

The federal government owns about 28% of the land in the United States, although the proportion in each state varies widely. Four federal agencies—the Bureau of Land Management, National Park Service, and Fish and Wildlife Service in the Department of the Interior; and the Forest Service in the Department of Agriculture—manage most of the approximately 112 million acres of designated wilderness, as well as many other lands. They also protect certain other lands as possible additions to the Wilderness System, and review the wilderness potential of lands.

In total, approximately 18% of federal land administered by the four major federal land management agencies is wilderness. A few states dominate wilderness statistics, however: approximately 52% of the total designated wilderness is in Alaska (57.8 million acres), and the state with the next-highest portion, California, has 14% (15.3 million acres). Connecticut, Delaware, the District of Columbia, Iowa, Kansas, Maryland, and Rhode Island do not contain any designated wilderness.

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In 1964, the Wilderness Act established a national system of congressionally designated areas to be preserved in a wilderness condition: “where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.”¹ The National Wilderness Preservation System (NWPS) was originally created with approximately 9.1 million acres designated in national forest system lands managed by the Forest Service. Congress has since added more than 100 million acres to the NWPS (see **Table 1**). Wilderness areas have been designated on land managed by each of the four federal land management agencies—the Forest Service (FS) in the Department of Agriculture, and the National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM) in the Department of the Interior.² Federal agencies, Members of Congress, and interest groups have recommended additional lands for inclusion in the NWPS. Furthermore, at the direction of Congress, agencies have studied, or are studying, the potential of their lands for wilderness designation. This report provides a brief history of wilderness, describes what wilderness is, identifies permitted and prohibited uses in wilderness areas, and provides data on the 111.7 million acres of designated wilderness areas as of July 6, 2022. For information on wilderness legislation, see CRS Report R41610, *Wilderness: Issues and Legislation*.

History of Wilderness

As the United States was formed, the federal government acquired 1.8 billion acres of land through purchases, treaties, and other agreements. Initial federal policy was generally to transfer land to states and private ownership, but Congress also provided for reserving certain lands for federal purposes. Over time, Congress has reserved or withdrawn increasing acreage for national parks, national forests, wildlife refuges, etc. The general policy of land disposal was formally changed to a policy of retaining the remaining lands in the Federal Land Policy and Management Act of 1976 (FLPMA).³

The early national forests were envisioned as working forests managed for multiple purposes.⁴ In time, some FS leaders recognized the need to preserve some areas in a natural state. Acting at its own discretion, and at the behest of conservationist and then-employee Aldo Leopold, the FS administratively designated the first wilderness area in the Gila National Forest in New Mexico in 1924. In the succeeding decades, the agency’s system of administratively designated wilderness, wild, and primitive areas grew to 14.6 million acres. However, in the 1950s, increasing timber harvests and recreational use of the national forests led to public concerns about the permanence of this system, as there was no law to prevent a future change to those administrative designations.

In response, the 88th Congress enacted the Wilderness Act in 1964. The act described the attributes and characteristics of wilderness, and it prohibited or restricted certain activities in wilderness areas to preserve and protect the designated areas, while permitting other activities to occur. The act reserves to Congress the authority to designate areas as part of the NWPS.

The NWPS began with the approximately 9.1 million acres of national forest lands that had been identified administratively as wilderness or wild areas. The Wilderness Act directed the Secretary

¹ P.L. 88-577, 16 U.S.C. §§1131-1136.

² For data on the acreage managed by the Forest Service (FS), Bureau of Land Management (BLM), National Park Service (NPS), and Fish and Wildlife Service (FWS), see CRS Report R42346, *Federal Land Ownership: Overview and Data*.

³ P.L. 94-579. 43 U.S.C. §§1701, et seq.

⁴ Forest Service, “A Historical Perspective,” <https://www.fs.fed.us/forestmanagement/aboutus/histperspective.shtml>.

of Agriculture to review the agency's nearly 5.5 million acres of primitive areas, and the Secretary of the Interior to evaluate the wilderness potential of National Park System and National Wildlife Refuge System lands. The Secretaries were to report their recommendations to the President and to Congress within 10 years (i.e., by 1974). Separate recommendations were made for each studied area, and many areas recommended for wilderness were later designated, although some of the recommendations are still pending. In 1976, FLPMA directed the Secretary of the Interior to conduct a similar review of the public lands administered by BLM within 15 years (i.e., by 1991). BLM submitted its recommendations to the President, and presidential recommendations were submitted to Congress (see “

BLM Wilderness Review and Wilderness Study Areas”).

The 90th Congress began expanding the Wilderness System in 1968, as shown in **Table 1**. Five laws were enacted, creating five new wilderness areas encompassing 792,750 acres in total. Wilderness designations generally increased in each succeeding Congress, rising to a peak of about 60.8 million acres designated during the 96th Congress (1979-1980), the largest amount designated by any Congress. This figure included the largest single designation of 56.4 million acres of wilderness through the Alaska National Interest Lands Conservation Act.⁵ The 98th Congress enacted more wilderness laws (21) and designated more acres (8.5 million acres in 21 states) outside of Alaska than any Congress since the NWPS was created.

Including the Wilderness Act, Congress has enacted more than 120 laws designating new wilderness areas or adding to existing ones, as shown in **Table 1**. The NWPS now contains 803 wilderness areas managed by the four federal land management agencies, with approximately 111.7 million acres in 44 states and Puerto Rico, as shown in **Table 2**.⁶ The agencies have recommended that additional lands be added to the Wilderness System; these lands are generally managed to protect their wilderness character while Congress considers adding them to the Wilderness System (see “Wilderness Review, Study, and Release”). The agencies are studying additional lands to determine if these lands should be added to the NWPS. However, comprehensive data on the lands recommended and under review for wilderness potential are not publicly available.

Table 1. Additions to the National Wilderness Preservation System

Congress	Number of Laws ^a	Number of States	Number of New Areas (Additions) ^b	Acres Designated ^c
88 th	1	13	54 (0)	9,125,721
89 th	0	0	0 (0)	0
90 th	5	4	5 (1)	792,750
91 st	3	13	25 (0)	303,612
92 nd	9	7	8 (1)	913,337
93 rd	4	22	35 (0)	1,271,535
94 th	8	23	35 (0)	2,428,327
95 th	7	18	28 (5)	4,680,519
96 th	7	10	71 (11)	60,753,605 ^d
97 th	6	6	7 (0)	83,309

⁵ P.L. 96-487.

⁶ Connecticut, Delaware, District of Columbia, Iowa, Kansas, Maryland, and Rhode Island do not contain any designated wilderness.

Congress	Number of Laws ^a	Number of States	Number of New Areas (Additions) ^b	Acres Designated ^c
98 th	21	21	177 (49)	8,530,657
99 th	5	5	11 (2)	99,153
100 th	7	8	22 (4)	1,422,730
101 st	5	5	68 (3)	3,501,160
102 nd	2	2	6 (4)	426,290
103 rd	2	2	79 (14)	8,272,871
104 th	2	2	1 (2)	29,970
105 th	1	1	0 (1)	160
106 th	8	7	18 (1)	1,081,465
107 th	5	5	18 (13)	529,590
108 th	2	2	15 (0)	801,784
109 th	6	7	25 (11)	1,030,748
110 th	1	1	1 (0)	106,000
111 th	1	9	50 (27)	2,096,150
112 th	0	0	0	0
113 th	2	6	5 (4)	279,709
114 th	1	1	3 (0)	275,665
115 th	2	2	1(7)	20,196
116 th	1	5	37 (7)	1,340,275
Total	123	44	803	111,695,310

Source: Created by the Congressional Research Service (CRS) from multiple sources, including Wilderness.net Acres by Year, Public Laws Enacted by Year, Areas Enacted by Year reports, and direct review of legislation.

- Excludes laws consisting of only minor boundary and acreage adjustments (less than 10 acres of net change).
- The first number indicates the number of new wilderness areas; the number in parentheses indicates the number of additions to existing wilderness areas.
- The total reported for a given Congress reflects the acreage as designated at the time of enactment, which may differ from the acreage used to calculate the total for the column because of subsequent acreage revisions.
- This figure includes 56.4 million acres that were designated wilderness through the Alaska National Interest Lands Conservation Act (P.L. 96-487).
- Data are current as of the publication date of this report.

What Is Wilderness?

The Wilderness Act described *wilderness* as an area of generally undisturbed federal land. Specifically, Section 2(c) defined wilderness as

A wilderness, in contrast with those areas where man and his works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean ... 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 and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or

a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.⁷

This definition provides some general guidelines for determining which areas should or should not be designated wilderness, but the law contains no specific criteria. Even the numerical standard (5,000 acres) is not absolute; smaller areas can be designated.

These imprecise criteria stem in part from differing perceptions of what constitutes wilderness. To some, *wilderness* is an area where there is absolutely no sign of human presence: no traffic can be heard (including aircraft); no roads, structures, or litter can be seen. To others, sleeping in a busy campground with electricity, running water, and play areas is a wilderness experience. Complicating these differing perceptions is the wide range of ability to “get away from it all” in various settings. In open terrain, human developments may be visible for miles, whereas a dense forest may obscure developments that are just yards away.

In an attempt to accommodate contrasting views of wilderness, the Wilderness Act provided certain exemptions and delayed implementation of restrictions for wilderness areas, as discussed below. At times, Congress has also responded to the conflicting demands of various interest groups by allowing additional exemptions for certain uses (especially for existing activities) in particular wilderness designations. The subsequent wilderness statutes have not designated wilderness areas by amending the Wilderness Act. Instead, they are independent statutes. Although nearly all of these statutes direct management in accordance with the Wilderness Act, many also provide unique management guidance for their designated areas. Ultimately, *wilderness areas* are whatever Congress designates as wilderness, regardless of developments or activities that some might argue conflict with the act’s definition of wilderness.

Management Provisions in the Wilderness Act

Several separate sections of the Wilderness Act specify general principles for managing wilderness. Congress specified that wilderness lands were to be “administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness.”⁸ Congress reiterated in a separate section that administering agencies were responsible for preserving “wilderness character.”⁹ Congress also specified that wilderness was to be managed to preserve its natural conditions.¹⁰

Because it is mentioned twice in the Wilderness Act, “wilderness character” is often viewed as central to wilderness management; all four federal land management agencies’ policies specify an objective of managing wilderness to preserve its wilderness character.¹¹ However, the term is not defined in the act. Some of the agencies have interpreted “wilderness character” to be related to the characteristics described in Section 2(c) of the act (see “What Is Wilderness?”), and have

⁷ 16 U.S.C. §1131(c).

⁸ 16 U.S.C. §1131(a) and §1133(c) (identical language is repeated in these two sections).

⁹ 16 U.S.C. §1133(b).

¹⁰ 16 U.S.C. §1131(c).

¹¹ BLM Manual 6340, “Management of BLM Wilderness,” FWS Manual Part 610, “Wilderness Stewardship,” FS Manual 2320, “Wilderness Management,” NPS Management Policy 6, “Wilderness Preservation and Management.”

elaborated on words from this section, such as *untrammelled, natural, undeveloped, and/or primitive and unconfined recreation*, in defining their wilderness management policies.¹² Others have defined wilderness character in other ways.¹³ The agencies also specify other management objectives, such as promoting certain conditions of the natural environment or managing wilderness for certain public purposes.¹⁴

In addition to these general management principles, the Wilderness Act specifically addressed a number of prohibited and permitted uses of wilderness, discussed below.

Prohibited Uses

The Wilderness Act generally prohibits various activities in designated wilderness areas. In some cases, Congress specified exceptions to some of these prohibitions, which are listed under each heading. Congress also specified general exceptions, which are described under “Exceptions to Prohibited Uses.”

Commercial Enterprise

The Wilderness Act prohibits “commercial enterprise,” generally interpreted to mean most business activities conducted for profit, including commercial resource development such as timber harvesting. This provision excludes “activities which are proper for realizing the recreational or other wilderness purposes of the areas.”¹⁵ Congress also made exceptions for some specific commercial activities, such as grazing (see “Permitted Uses”).

Motorized and Mechanized Equipment or Vehicles

The Wilderness Act prohibits use of “motor vehicles,” “motorized equipment or motorboats,” “landing of aircraft,” and “mechanical transport.” In total, these prohibitions are generally construed to prohibit the use of equipment or transportation that is not human-powered (e.g., cars, trucks, off-highway vehicles, chain saws, and bulldozers) and human-powered, mechanized vehicles (e.g., bicycles, strollers). Aircraft or motorboats (but not other motorized or mechanized use) may continue to be used in wildernesses where their use was established prior to designation, subject to any restrictions the Secretary of Agriculture imposes.

¹² BLM and NPS both use these four terms, in addition to a fifth term that describes the other wilderness characteristics of “ecological, geological, or other features of scientific, educational, scenic, or historical value” in Section 2(c) of the Wilderness Act. BLM Manual 6340, “Management of BLM Wilderness.” NPS Management Policy 6, “Wilderness Preservation and Management.”

¹³ FWS policy specifies “wilderness character” as having tangible and intangible qualities, some of which directly relate to language in Section 2(c) of the Wilderness Act (e.g., being untrammelled, providing opportunities for primitive and unconfined recreation) and others which do not (e.g., providing environments for native plants and animals). FWS Policy 610, “Wilderness Stewardship.” CRS was not able to locate a definition of “wilderness character” in FS policy or regulation, although some FS publications use the characteristics in Section 2(c) of the Wilderness Act to define wilderness character. For example, see Peter Landres, Steve Boutcher, and Elizabeth Mejicano, et al., *Wilderness Character Monitoring Technical Guide*, Forest Service, RMRS-GTR-2629, 2020.

¹⁴ For example, among other objectives, the FS specifies it will manage National Forest Service (NFS) wilderness with the objective of maintaining wilderness “in such a manner that ecosystems are unaffected by human manipulation and influences so that plants and animals develop and respond to natural forces.” Among other objectives, BLM specifies it will manage wilderness for recreational, scenic, scientific, education, conservation, and historic use and for the purposes authorized in Sections 4(c) and 4(d) of the Wilderness Act, while preserving wilderness character. BLM 6340, FS manual.

¹⁵ 16 U.S.C. §1133(d)(5).

Structures, Installations, and Roads

The Wilderness Act specifies that there shall be “no structure or installation” within designated wilderness areas. “Structures or installations” are generally interpreted to mean human constructions, such as buildings, pipelines, communications towers, scientific instruments, fences, and others. The Wilderness Act also generally prohibits permanent or temporary roads in wilderness areas. The Wilderness Act is silent on the treatment of any infrastructure in place at the time of the designation. Within certain national forest wilderness areas, the President may authorize the establishment and maintenance of certain water resources installations (such as reservoirs, power projects, and transmission lines) and may authorize associated road construction and maintenance essential to those developments.¹⁶

Exceptions to Prohibited Uses

The Wilderness Act provides several general exceptions to some prohibited uses. Commercial enterprise and permanent roads are not subject to these exceptions (i.e., are never allowed, except as described above). For the other prohibited uses, these exceptions are

- When uses are subject to existing private rights
- Measures required in emergencies involving health and safety risks to people
- Measures necessary to control fire, insects, and diseases¹⁷
- To meet “minimum requirements for the administration of the area”¹⁸

The agencies have established procedures for evaluating uses of these exceptions (see text box on “Minimum Requirements Analysis”).

Minimum Requirements Analysis

The concept of *minimum requirements*, introduced in Section 4(c) of the Wilderness Act, has become a central tenet of wilderness management. The Wilderness Act specifies that certain activities in wilderness, such as motorized transport and establishment of structures and installations, are prohibited “except as necessary to meet minimum requirements for the administration of the area.” This phrase has given rise to the process of so-called *minimum requirements analysis* (MRA), a procedure by which wilderness managers determine whether otherwise-prohibited uses of wilderness can occur.

Although there are various potential approaches to MRAs, the procedure often involves two successive stages. In these stages, managers assess whether the action is

- *Necessary*. Actions are necessary if they involve legal mandates (e.g. existing private rights, provisions in law). Agencies also may evaluate if an action is needed to protect wilderness character or if it must occur within the relevant wilderness.
- *Minimum*. If an action is necessary, agencies may evaluate what method for achieving the action causes the least impact to wilderness character, resources, or uses.

Agencies may determine that MRAs are not required in some situations or can be accomplished through programmatic MRAs covering a class of situations (e.g., emergencies, where individual MRAs may impede a timely response).

¹⁶ 16 U.S.C. §1133(d)(4). The Wilderness Act specifies that such water resources projects may be authorized in “wilderness areas in the national forests designated by this chapter.” As described above, the Wilderness Act designated certain administratively designated areas of the NFS as wilderness upon its passage. Other wildernesses in the national forests were designated by individual laws. Thus, it is somewhat unclear if this provision applies only to those NFS wildernesses which were designated on passage of the Wilderness Act, or all wildernesses in the NFS.

¹⁷ 16 U.S.C. §1133(d)(1).

¹⁸ 16 U.S.C. §1133(c).

Permitted Uses

The Wilderness Act, and subsequent statutes, authorized some uses to continue, particularly if the uses were authorized at the time of designation. For example, the Wilderness Act specifically directs that “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.”¹⁹ Congress provided additional guidance on continuing livestock grazing at historic levels in designated wilderness areas through committee reports.²⁰

The Wilderness Act extended the mining and mineral leasing laws for wilderness areas in national forests for 20 years, through 1983. Until midnight on December 31, 1983, new mining claims and mineral leases were permitted for those wilderness areas and exploration and development were authorized subject to any access regulations prescribed by the Secretary of Agriculture.²¹ On January 1, 1984, the Wilderness Act withdrew the specified national forest wilderness areas from all forms of appropriation under the mining laws.

Although not specifically permitted or prohibited in the Wilderness Act, “primitive and unconfined” recreation is described as a characteristic of wilderness (see “What Is Wilderness?” “What is Wilderness?”). Therefore, recreation is generally considered a permitted use of wilderness, although specific activities may be prohibited. For example, hiking, camping, canoeing, and horseback riding are generally considered to be allowed, whereas off-highway vehicle use and mountain biking are generally prohibited in accordance with the act’s prohibitions on motorized and mechanized transport. Other recreational uses may require case-by-case analysis: for example, agencies may need to determine whether commercial guiding or outfitting is “necessary” for realizing the recreational purposes of wilderness.²² Provisions of law may address recreational use of individual wildernesses (see “Management Provisions in Individual Wilderness Laws”). Whether individual wildernesses are used for recreational purposes (and which purposes) may depend on a number of factors, such as terrain and climate, ease of access, distance from population centers, and others.

Other Management Provisions

Other management issues addressed in the Wilderness Act relate to jurisdictional concerns or private rights:

- *State Fish and Wildlife Jurisdiction and Responsibilities.* The Wilderness Act explicitly directs that wilderness designations have no effect on state jurisdiction or responsibility over fish and wildlife.²³
- *Water Rights.* The Wilderness Act does not claim or deny a reserved water right.²⁴

¹⁹ 16 U.S.C. §1133(d)(3).

²⁰ H. Rept. 96-617, which accompanied P.L. 96-560, and Appendix A—Grazing Guidelines, in H.Rept. 101-405, which accompanied P.L. 101-628.

²¹ The Wilderness Act withdrew designated wilderness areas from access under the mining and mineral leasing laws after December 31, 1983.

²² For example, see Forest Service Manual 2320, “Wilderness Management.”

²³ 16 U.S.C. §1133(d)(7).

²⁴ 16 U.S.C. §1133(d)(6).

- *Land and Rights Acquisition and Future Designations.* The Wilderness Act authorizes the acquisition of *inholdings*, including through donation or exchange for other federal land, subject to appropriations.²⁵

Relation to Management of Underlying Federal Land

Units of the NWPS are designated as part of and within existing units of federal land—for example, a wilderness within a national forest remains part of the National Forest Service (NFS) and is managed by the FS. Furthermore, the Wilderness Act specifies that its purposes are “within and supplemental to” the purposes for which units of the NFS, NWRS, and National Park System are established and administered.²⁶ In general, this means the management provisions applicable to those units of federal land apply, particularly those governing management direction and restricting activities. For example, hunting is not generally allowed in the National Park System but is generally allowed on most NFS and BLM lands. Thus, hunting may be prohibited in National Park System wilderness but may be authorized in NFS or BLM wilderness.

Management Provisions in Individual Wilderness Laws

Congress designates wilderness through individual wilderness laws, which generally specify management of the designated area in accordance with the Wilderness Act. However, many wilderness laws have allowed various nonconforming uses and conditions in the designated wilderness, especially if such uses were in place at the time of designation. Wilderness laws also consider situations that were not directly contemplated in the act. Some provisions that have been included in wilderness laws are described below.

- *Structures and Installations.* Although they are prohibited under the Wilderness Act, some subsequent wilderness statutes have addressed structures and installations in varying ways. Some have authorized continued maintenance of existing structures or installations. Others have authorized certain kinds of structures or installations, such as research instruments.²⁷
- *Motorized Access.* Some statutes have explicitly allowed motorized access for state agencies for fish and wildlife management activities. Several statutes have expressly permitted low-level military overflights of wilderness areas, although the Wilderness Act does not prohibit overflights.²⁸
- *Energy and Minerals.* Some wilderness laws have directed continued energy or mineral development and extraction or otherwise allowed use of an existing mine or well to continue within designated areas. Other wilderness laws have specifically withdrawn the designated areas from availability under energy,

²⁵ 16 U.S.C. §1135(a)-(c).

²⁶ 16 U.S.C. §1133(a).

²⁷ For example, Section 1411(e) of P.L. 116-9 authorized operation and maintenance of certain existing utility facilities and rights-of-way in multiple wildernesses in California. Section 1972(b)(8) of P.L. 111-11 authorized climatological data collection installations in multiple wildernesses in Utah.

²⁸ For example, Section 1201(6) of P.L. 116-9 authorized low-level military overflights over multiple wildernesses in New Mexico. Section 103(f) of P.L. 103-433 authorized use of motorized vehicles by state agencies managing fish and wildlife in specified wildernesses in California.

- mineral, or geothermal laws, though valid existing rights are not terminated and can be developed under reasonable regulations.²⁹
- *Public Access.* Many wilderness statutes have authorized closing certain wilderness areas (or parts thereof) to public access. Wilderness statutes also have allowed access for other specific activities, such as access to cemeteries within designated areas or for tribal activities.³⁰
 - *Buffer Zones.* The Wilderness Act is silent on the issue of buffer zones around wilderness areas as a means to protect the designated areas. However, in response to concern that designating wilderness areas would restrict management of adjoining federal lands, language in many subsequent wilderness statutes has prohibited buffer zones that would limit uses and activities on federal lands around the wilderness areas.³¹
 - *Jurisdiction and Authorities of Other Federal Agencies.* Several wilderness statutes have directed that other agencies' specific authorities, jurisdiction, and related activities be allowed to continue. For example, some wilderness statutes specify that the wilderness designation has no effect on law enforcement, generally, or on U.S.-Mexico border relations, drug interdiction, or military training.³²
 - *Water Rights.* Wilderness statutes have provided different directions concerning federal reserved water rights associated with the designated wilderness areas. Some wilderness statutes have expressly reserved, or denied, claims to federal water rights.³³

Individual wilderness laws sometimes reiterate provisions from the Wilderness Act. For example, many wilderness statutes expressly direct continued livestock grazing in conformance with the Wilderness Act and the committee reports. Others reiterate state involvement with fish and wildlife, sometimes referring only to state jurisdiction (not responsibilities). Wilderness statutes frequently provide that state law dictates regulation of water allocation and use.

Wilderness Review, Study, and Release

Congress directed the four land-management agencies to review the wilderness potential of their lands and make recommendations regarding the lands' suitability for wilderness designation.

²⁹ For example, Section 1201(11)(a) of P.L. 116-9 withdrew multiple wilderness areas in New Mexico from location, entry, and patent under the mining laws and operation of the mineral leasing, mineral materials, and geothermal leasing laws. Section 1022 of P.L. 104-333 allowed operations on oil and gas leases issued prior to the designation of Bisti/De-Na-Zin Wilderness in New Mexico to continue, subject to specified regulations.

³⁰ For example, Section 1851(d)(6) of P.L. 11-111 ensured access to the Cahuilla Mountain Wilderness in California to federally recognized Indian tribes ("Tribes") for cultural purposes, and also allowed for temporary closure of all or part of the wilderness to public access for cultural purposes at a Tribes' request.

³¹ For example, Section 7 of P.L. 115-430 specified that the designation of the Flatside Wilderness in Arkansas did not imply creation of a buffer zone.

³² For example, Section 301(g) of P.L. 101-628 specified that the designation of the Cabeza Prieta Wilderness in Arizona should not affect continued U.S.-Mexico border operations by specified agencies. Section 5(b) of P.L. 107-370 authorizes continued nonmotorized access and use of several wildernesses in California for military training purposes, as established prior to the wildernesses' designation.

³³ For example, Section 103(a) of P.L. 114-46 denies reservation by the United States of any water rights with respect to several wildernesses in Idaho. Section 502 of P.L. 100-668 expressly reserves water rights with respect to several wildernesses in Washington.

Congress acted on many of those recommendations by either designating lands as wilderness or by releasing lands from further wilderness consideration. However, some recommendations remain pending. Questions and discussions persist over the protection and management of these areas, which some believe should be designated as wilderness and others believe should be available for development. This debate has been particularly controversial for FS inventoried roadless areas and BLM wilderness study areas.³⁴

Forest Service Wilderness Reviews and Inventoried Roadless Areas³⁵

The Wilderness Act directed the Secretary of Agriculture to review the FS *primitive areas*—certain administratively designated NFS lands where development was limited—for wilderness potential. The act directed the FS to make recommendations to the President regarding the suitability of those lands for wilderness designation. The FS attempted to inventory and study so-called *roadless areas*—primitive areas and other undeveloped areas identified by the FS—for wilderness potential in two separate reviews, known as Roadless Area Review and Evaluation (RARE) I and II. However, legal action blocked the results of both reviews and limited FS management of lands studied in the reviews, including those not recommended for wilderness designation. Congress intervened to legislatively address the reviewed areas, such as by designating them as wilderness or expressing that the FS obligation to review the lands was fulfilled (known as *release language*).

In 2001, the Clinton Administration addressed the management and protection of NFS *inventoried roadless areas* (IRAs, primarily RARE II areas not designated as wilderness). The Administration developed regulations that would prohibit most road construction, reconstruction, and timber harvesting in IRAs (the 2001 Rule).³⁶ More than a decade of litigation followed, shaped by the issuance of a contrasting rule by the George W. Bush Administration in 2005 and ongoing legal challenges to those rules. At certain points, federal courts were in conflict, leading to uncertainty over which rule (if any) was in effect. However, after resolution of the legal challenges to the nationwide rules, the 2001 Rule returned to effect in most areas of the United States. Due to related rulemaking efforts, additional roadless rules are in effect for the remaining areas, including individual rules for the states of Colorado and Idaho. In 2020, the FS exempted the Tongass National Forest in Alaska from the 2001 Rule, eliminating approximately 9.3 million acres of IRAs.³⁷

BLM Wilderness Review and Wilderness Study Areas

Congress directed BLM to consider wilderness as a use of its public lands in the 1976 enactment of FLPMA. Section 603 of FLPMA required BLM to make an inventory of roadless areas greater

³⁴ The NPS and the FWS also manage land designated as wilderness study areas.

³⁵ For more information on FS wilderness reviews, see CRS Report R46504, *Forest Service Inventoried Roadless Areas (IRAs)*, by Anne A. Riddle and Adam Vann.

³⁶ FS, “Roadless Area Conservation Rule,” 66 *Federal Register* 3244-3273, January 12, 2001. The initial explanatory text accompanying the 2001 Rule specified that it applied to 58.5 million acres of IRAs. Subsequent estimates of IRA acreage have differed, perhaps due to improvements in mapping technology, subsequent designation by Congress of some lands, or for other reasons. For more information on IRAs, see CRS Report R46504, *Forest Service Inventoried Roadless Areas (IRAs)*, by Anne A. Riddle and Adam Vann.

³⁷ See CRS Report R46505, *The Alaska Roadless Rule: Eliminating Inventoried Roadless Areas (IRAs) in the Tongass National Forest*, by Anne A. Riddle.

than 5,000 acres and to recommend the suitability for designation of those areas to the President within 15 years of October 21, 1976. The President then had two years to submit wilderness recommendations to Congress. BLM presented its recommendations by October 21, 1991, and Presidents George H. W. Bush and Bill Clinton submitted wilderness recommendations to Congress. Although BLM has reviewed these areas and Congress has enacted several statutes designating BLM wilderness areas, many of the wilderness recommendations for BLM lands remain pending. As of September 2020, there are approximately 11.6 million acres of BLM wilderness study areas.³⁸

There are two continuing issues for potential BLM wilderness: BLM's management requirements of the wilderness study areas under FLPMA, and whether BLM has a continuing obligation under FLPMA to conduct wilderness reviews.

Protection of BLM Wilderness Study Areas

Section 603(c) of FLPMA directs the agency to manage Wilderness Study Areas (WSAs) designated under its provisions “until Congress has determined otherwise . . . in a manner so as not to impair the suitability of such areas for preservation as wilderness.”³⁹ Thus, BLM must protect the WSAs as if they were wilderness until Congress enacts legislation that releases BLM from that responsibility. This responsibility is sometimes referred to as a *non-impairment* obligation or standard.

WSAs have been subject to litigation challenging BLM's protection. In the early 2000s, BLM was sued for not adequately preventing impairment of WSAs from increased off-road vehicle use. In *Norton v. Southern Utah Wilderness Alliance*, the U.S. Supreme Court ruled that the non-impairment obligation was not enforceable by court challenge.⁴⁰ The Court held that although WSA protection was mandatory, it was a broad programmatic duty of BLM and not a discrete agency obligation. The Court also concluded that the relevant FLPMA land use plans (which indicated that WSAs would be monitored) constituted only management goals that might be modified by agency priorities and available funding, and were not a basis for enforcement under the Administrative Procedure Act. Therefore, it appears that although BLM actions that would impair the suitability of WSAs as wilderness could be enjoined, as with any agency enforcement obligation,⁴¹ forcing BLM to take protective action would be difficult at best.

BLM Reviews for Wilderness Potential

Despite BLM's continuing obligation under FLPMA Section 201 to identify the resources on its lands, giving priority to areas of critical environmental concern,⁴² it is unclear whether BLM is required to review its lands specifically for wilderness potential after expiration of the reviews

³⁸ BLM, “National Landscape Conservation System: Wilderness Study Areas,” last updated September 2020, accessed 07/06/2022.

³⁹ Most BLM Wilderness Study Areas (WSAs) have been designated under the authority of Section 603 of Federal Land Policy and Management Act (FLPMA). Some WSAs have been designated under Sections 201 and 202 of FLPMA or by acts of Congress. These WSAs are not subject to the nonimpairment standards of Section 603 of FLPMA.

⁴⁰ 542 U.S. 55 (2004).

⁴¹ See, for example, *Heckler v. Chaney*, 470 U.S. 821, 831 (1985); *United States v. Batchelder*, 442 U.S. 114, 123-124 (1979); *United States v. Nixon*, 418 U.S. 683, 693 (1974); *Vaca v. Sipes*, 386 U.S. 171, 182 (1967) (“an agency's decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency's absolute discretion”).

⁴² FLPMA §201; 43 U.S.C. §1711.

required by Section 603 of FLPMA.⁴³ In contrast to the FS, which must revise its land and resource management plans at least every 15 years, BLM is not required to revise its plans on a specified cycle; rather, it must revise its land and resource management plans “when appropriate.” Furthermore, while NFMA includes wilderness in the planning process, both directly and by reference to the Multiple Use-Sustained Yield Act of 1960, FLPMA is silent on wilderness in the definitions of multiple use and sustained yield and in the guidance for the BLM planning process. Thus, if and when BLM conducts future wilderness reviews are less certain than if and when the FS conducts future wilderness reviews.

DOI Wilderness Policy Changes

With each Administration, DOI has changed its policy regarding how it administers areas with wilderness potential. In September 2003, then-DOI Secretary Gale Norton settled litigation challenging a 1996 policy identifying large amounts of wilderness-suitable lands.⁴⁴ Following the settlement, the BLM assistant director issued guidance (known as Instruction Memorandum 2003-274) prohibiting further reviews and limiting the term *wilderness study areas* and the non-impairment standard to areas already designated for the original FLPMA Section 603 reviews of the 1970s and 1980s.⁴⁵ The guidance advised, in part, that because the FLPMA Section 603 authority expired, “there is no general legal authority for the BLM to designate lands as WSAs for management pursuant to the non-impairment standard prescribed by Congress for Section 603 WSAs.”⁴⁶

On December 22, 2010, then-DOI Secretary Ken Salazar issued Order No. 3310, known as the Wild Lands Policy, addressing how BLM would manage wilderness.⁴⁷ This order indirectly modified the 2003 wilderness guidance without actually overturning the direction (or even acknowledging it). The order relied on the authority in FLPMA Section 201 to inventory lands with wilderness characteristics that are “outside of the areas designated as Wilderness Study Areas and that are pending before Congress” and designated these lands as “Wild Lands.” It also directed BLM to consider the wilderness characteristics in land use plans and project decisions, “avoiding impairment of such wilderness characteristics” unless alternative management is deemed appropriate. Whereas Instruction Memorandum 2003-274 indicated that, except for extant FLPMA Section 603 WSAs, the non-impairment standard did not apply, Order No. 3310 appeared to require an affirmative decision that impairment is appropriate in a FLPMA Section 201 wilderness resource area. Otherwise, under Order No. 3310, impairment must be avoided.

⁴³ FLPMA §603; 43 U.S.C. §1782 (requiring a review within 15 years [by 1991] of roadless areas greater than 5,000 acres to determine suitability for wilderness).

⁴⁴ In 1996, then-DOI Secretary Bruce Babbitt used the inventory authority in Section 201 of FLPMA to identify 2.6 million acres in Utah as having wilderness qualities. This land was in addition to the lands inventoried and reviewed in the 1970s and 1980s. The state of Utah challenged the inventory as violating FLPMA Section 603. See *Utah v. Norton*, No 96-CV-870 (D. Utah *Order approving settlement* April 14, 2003).

⁴⁵ BLM Assistant Director, Instruction Memorandum 2003-275, *Consideration of Wilderness Characteristics in Land Use Plans (Excluding Alaska)*, September 29, 2003, p. 1, at http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction.html (“It is, therefore, no longer BLM policy to continue to make formal determinations regarding wilderness character, designate new WSAs through the land use planning process, or manage any lands—except WSAs established under Section 603 of FLPMA and other existing WSAs—in accordance with the non-impairment standard prescribed in the [Interim Management Policy].”) These memoranda rescinded the Wilderness Inventory and Study Procedures Handbook.

⁴⁶ Instruction Memorandum 2003-275.

⁴⁷ Secretary of the Interior, Order No. 3310, *Protecting Wilderness Characteristics on Lands Managed by the Bureau of Land Management*, (December 22, 2010), at http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/news_release_attachments.Par.26564.File.dat/sec_order_3310.pdf.

After Congress withheld funding, then-Secretary Salazar revoked the order in June 2011 and stated that BLM would not designate any wild lands.⁴⁸ Despite the order being formally revoked, Congress has continued to withhold funding in annual appropriations acts.⁴⁹

Potential Wilderness Designated by Congress

Congress has enacted a number of wilderness statutes designating *potential* wilderness areas. Potential wilderness areas are to become wilderness when certain conditions are met, as specified in the designating statute. For example, some statutes have specified that the potential wilderness will be designated as wilderness on the date the relevant Secretary publishes notice in the *Federal Register* specifying that nonconforming uses of the area (often, uses prohibited in the Wilderness Act) have ceased. Such statutes may specify that the potential wilderness areas are to be managed as wilderness, notwithstanding certain prohibited uses, until such time. Other statutes may specify that the wilderness designation is dependent upon other factors (e.g., land acquisition) or at other times (e.g., after a certain number of years have passed).

Data on Wilderness Designations

The wilderness data presented in **Table 2** are acreage estimates for wilderness areas that have been designated by Congress as compiled by the agencies as of July 6, 2022. Acreages are estimates, since few (if any) of the areas have been precisely surveyed. In addition, the agencies have recommended areas for addition to the NWPS, and continue to review the wilderness potential of other lands under their jurisdiction, both of congressionally designated WSAs and under congressionally directed land management planning efforts. However, statistics on acreage in pending recommendations and on those being studied, particularly in the planning efforts, are unavailable.

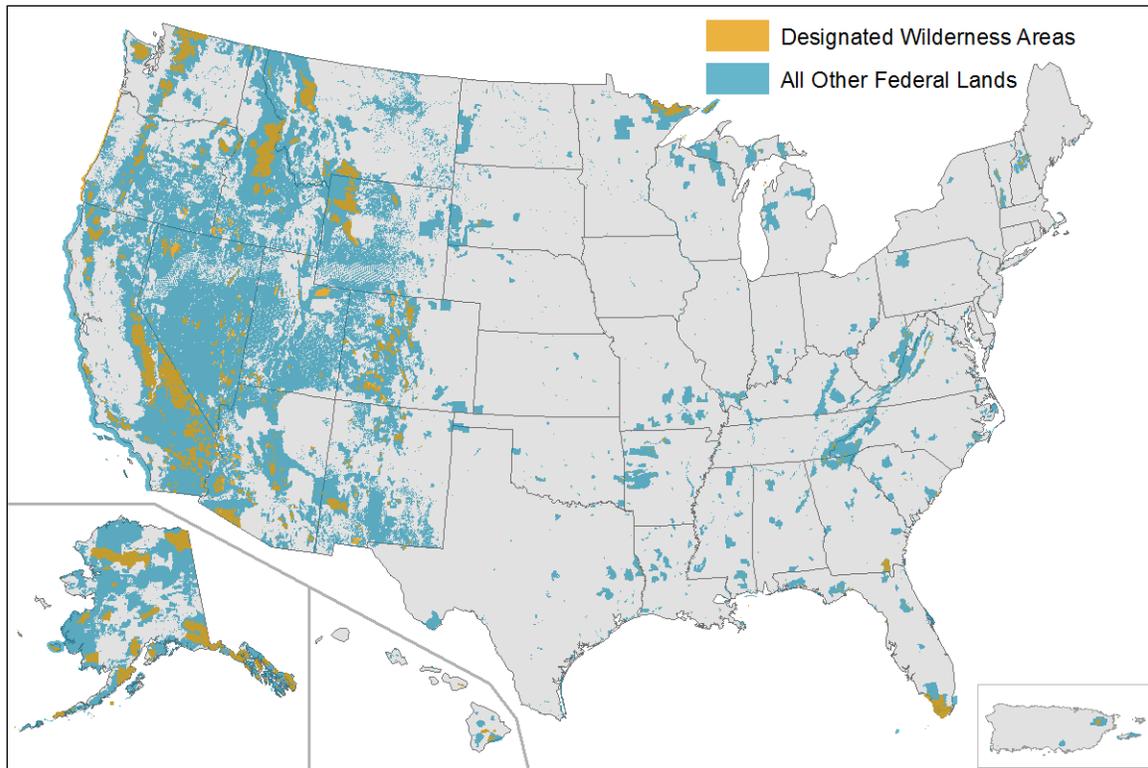
As of July 6, 2022, Congress has designated 111.7 million acres of federal land in units of the NWPS, as shown in **Table 2** and **Figure 1**. Wilderness areas have been designated in 44 states plus Puerto Rico; Connecticut, Delaware, District of Columbia, Iowa, Kansas, Maryland, and Rhode Island do not contain any designated wilderness areas. Just over half (52%) of this land—57.8 million acres—is in Alaska, and includes most of the wilderness areas managed by NPS (74%) and FWS (90%).⁵⁰ California has the next-largest wilderness acreage, with 15.3 million acres designated in the state. However, Washington has the largest percentage of federal land designated wilderness, with the 4.5 million acres of wilderness accounting for 38% of the federal land within the state. NPS manages the most wilderness acreage (44.3 million acres, 40% of the Wilderness System), followed by the Forest Service, which manages 36.7 million acres (33%). FWS manages 20.7 million acres (19%), and BLM manages the least wilderness acreage, 10.0 million acres (9%).

⁴⁸ Memorandum from Secretary, Department of the Interior, to Director, Bureau of Land Management, *Wilderness Policy* (June 1, 2011), at <http://www.doi.gov/news/pressreleases/upload/Salazar-Wilderness-Memo-Final.pdf>.

⁴⁹ FY2011: P.L. 112-10, §1769; FY2012: P.L. 112-74, §125; FY2014: P.L. 113-76, Division G, Title I, §124; FY2015: P.L. 113-235, Division F, Title I, §115; and FY2016: P.L. 114-113 Division G, Title I, §112.

⁵⁰ For data on the acreage managed by the FS, BLM, NPS, and FWS, see CRS Report R42346, *Federal Land Ownership: Overview and Data*.

Figure 1. Designated Wilderness Areas and Federal Lands in the United States



Source: Created by CRS using data from Wilderness.net and the U.S. National Atlas.

Notes: The federal lands depicted in this figure include all of the federally owned or administered land areas in the United States, including lands managed by the Department of Defense and Department of the Interior lands held in trust for Indian tribes.

Table 2. Designated Wilderness Area, by State and Agency

	Bureau of Land Management		Fish and Wildlife Service		Forest Service		National Park Service		Total Designated Area		Share of Wilderness System
	Acres	% of BLM Land	Acres	% of FWS Land	Acres	% of FS Land	Acres	% of NPS Land	Acres	% of Federal Land	
Alabama	0	0%	0	0%	42,156	6%	0	0%	42,156	6%	<1%
Alaska	0	0%	18,692,615	24%	5,769,910	26%	33,301,876	64%	57,764,401	26%	52%
Arizona	1,396,966	12%	1,343,444	80%	1,327,594	12%	444,055	17%	4,512,059	16%	4%
Arkansas	0	0%	2,144	1%	115,597	5%	34,933	35%	152,674	5%	<1%
California	4,125,676	28%	9,172	3%	5,111,998	25%	6,099,823	80%	15,346,669	35%	14%
Colorado	205,814	3%	2,560	2%	3,177,345	22%	349,422	53%	3,735,141	16%	3%
Connecticut	0	0*	0	0%	0	0%	0	0%	0	0%	0%
Delaware	0	0*	0	0%	0	0*	0	0%	0	0%	0%
Florida	0	0%	51,252	17%	73,642	6%	1,296,500	53%	1,421,394	36%	1%
Georgia	0	0*	362,107	74%	116,664	13%	9,907	25%	488,678	35%	<1%
Hawaii	0	0*	0	0%	0	0*	147,810	41%	147,810	22%	<1%
Idaho	541,644	5%	0	0%	4,211,015	21%	43,243	8%	4,795,902	15%	4%
Illinois	0	0%	4,050	5%	28,121	9%	0	0%	32,171	8%	<1%
Indiana	0	0*	0	0%	12,472	6%	0	0%	12,472	5%	<1%
Iowa	0	0*	0	0%	0	0*	0	0%	0	0%	0%
Kansas	0	0%	0	0%	0	0%	0	0%	0	0%	0%
Kentucky	0	0*	0	0%	17,187	2%	0	0%	17,187	2%	<1%
Louisiana	0	0%	8,346	1%	8,701	1%	0	0%	17,047	1%	<1%
Maine	0	0*	7,392	10%	11,235	21%	0	0%	18,627	7%	<1%
Maryland	0	0%	0	0%	0	0*	0	0%	0	0%	0%
Massachusetts	0	0*	3,244	14%	0	0*	0	0%	3,244	6%	<1%

	Bureau of Land Management		Fish and Wildlife Service		Forest Service		National Park Service		Total Designated Area		Share of Wilderness System
	Acres	% of BLM Land	Acres	% of FWS Land	Acres	% of FS Land	Acres	% of NPS Land	Acres	% of Federal Land	
Michigan	0	0%	25,309	22%	89,628	3%	176,315	28%	291,252	8%	<1%
Minnesota	0	0%	6,180	1%	816,244	29%	0	0%	822,424	23%	<1%
Mississippi	0	0%	0	0%	6,026	<1%	4,630	4%	10,656	<1%	<1%
Missouri	0	0%	7,730	13%	64,184	4%	0	0%	71,914	4%	<1%
Montana	6,347	<1%	64,535	10%	3,430,921	20%	0	0%	3,501,803	13%	3%
Nebraska	0	0%	4,635	3%	7,833	2%	0	0%	12,468	2%	<1%
Nevada	2,079,696	4%	0	0%	1,132,011	20%	236,789	30%	3,448,496	6%	3%
New Hampshire	0	0*	0	0%	138,406	18%	0	0%	138,406	17%	<1%
New Jersey	0	0*	10,341	13%	0	0*	0	0%	10,341	9%	<1%
New Mexico	446,177	3%	40,048	12%	1,429,711	16%	56,392	12%	1,972,328	8%	2%
New York	0	0*	0	0%	0	0%	1,381	4%	1,381	2%	<1%
North Carolina	0	0*	8,785	2%	102,715	8%	0	0%	111,500	5%	<1%
North Dakota	0	0%	9,732	2%	0	0%	29,920	42%	39,652	2%	<1%
Ohio	0	0*	77	<1%	0	0%	0	0%	77	0%	<1%
Oklahoma	0	0%	8,570	8%	15,470	4%	0	0%	24,040	5%	<1%
Oregon	254,060	2%	608	<1%	2,251,691	14%	0	0%	2,506,359	8%	<1%
Pennsylvania	0	0*	0	0%	9,005	2%	0	0%	9,005	2%	<1%
Puerto Rico	0	0*	0	0%	10,412	36%	0	0%	10,412	21%	<1%
Rhode Island	0	0*	0	0%	0	0*	0	0%	0	0%	0%
South Carolina	0	0*	29,000	22%	16,538	3%	21,700	67%	67,238	8%	<1%
South Dakota	0	0%	0	0%	13,534	<1%	64,144	43%	77,678	3%	<1%
Tennessee	0	0*	0	0%	86,110	12%	0	0%	86,110	8%	<1%
Texas	0	0%	0	0%	38,335	5%	46,850	4%	85,185	3%	<1%

	Bureau of Land Management		Fish and Wildlife Service		Forest Service		National Park Service		Total Designated Area		Share of Wilderness System
	Acres	% of BLM Land	Acres	% of FWS Land	Acres	% of FS Land	Acres	% of NPS Land	Acres	% of Federal Land	
Utah	914,079	4%	0	0%	780,432	10%	124,406	6%	1,818,917	6%	2%
Vermont	0	0*	0	0%	100,874	25%	0	0%	100,874	22%	<1%
Virginia	0	0%	0	0%	137,058	8%	79,579	26%	216,637	10%	<1%
Washington	7,140	2%	805	<1%	2,734,091	29%	1,743,100	95%	4,485,136	38%	4%
West Virginia	0	0*	0	0%	119,311	11%	0	0%	119,311	11%	<1%
Wisconsin	0	0%	29	0%	46,438	3%	33,500	54%	79,967	5%	<1%
Wyoming	0	0%	0	0%	3,068,112	33%	0	0%	3,068,112	10%	3%
U.S. Total	9,977,599	4%	20,702,709	23%	36,668,727	19%	44,346,275	55%	111,695,310	18%	100%

Sources: Bureau of Land Management (BLM), *Public Land Statistics*, 2020, <https://www.blm.gov/about/data/public-land-statistics>; Fish and Wildlife Service (FWS), *Annual Lands Report*, 2021, <https://www.fws.gov/refuges/land/LandReport.html>; Forest Service (FS), *Land Areas of the National Forest System (LAR)*, 2021, <https://www.fs.fed.us/land/staff/lar-index.shtml>; National Park Service (NPS), Wilderness.net Acreage by Agency summary reports (wilderness acreage) and *Park Acreage Reports*, 2021, <https://www.nps.gov/subjects/lwcf/acreagereports.htm> (state land acreage).

Notes: Acres are rounded to the nearest whole number. Percentages less than 0.5 and greater than 0 are given as <1%. 0* indicates that the agency owns no land within the state, whereas 0% indicates the agency owns land in the state. The District of Columbia and U.S. territories other than Puerto Rico are not listed in the table. "Total designated area" is the sum of acres of BLM, FWS, FS, and NPS designated wilderness areas. "Share of wilderness system" is the share of all wilderness acres located in the state.

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