

## Forest Service, USDA

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### PART 241—FISH AND WILDLIFE

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AUTHORITY: 16 U.S.C. 472, 539, 551, 683.

#### Subpart A—General Provisions

SOURCE: 6 FR 1987, Apr. 17, 1941, unless otherwise noted.

##### § 241.1 Cooperation in wildlife protection.

(a) Officials of the Forest Service will cooperate with State, county, and Federal officials in the enforcement of all laws and regulations for the protection of wildlife.

(b) Officials of the Forest Service who have been, or hereafter may be, lawfully appointed deputy game wardens under the laws of any State, will serve in such capacity with full power to enforce the State laws and regulations relating to fur-bearing and game animals, birds, and fish. Such officials will serve as State deputy game wardens without additional pay, except that they may accept the usual fees allowed by the respective States for issuing hunting and fishing licenses. All officials of the Forest Service are prohibited from accepting bounties, rewards, or parts of fines offered by any person, corporation or State for aid rendered in the enforcement of any Federal or State law relating to fur-bearing and game animals, birds, and fish.

##### § 241.2 Cooperation in wildlife management.

The Chief of the Forest Service, through the Regional Foresters and Forest Supervisors, shall determine the extent to which national forests or portions thereof may be devoted to wildlife protection in combination with other uses and services of the national forests, and, in cooperation with the Fish and Game Department or other constituted authority of the State concerned, he will formulate plans for securing and maintaining desirable populations of wildlife species, and he may enter into such general or specific cooperative agreements with appropriate State officials as are necessary and desirable for such purposes. Officials of the Forest Service will cooperate with State game officials in the planned and orderly removal in accordance with the requirements of State laws of the crop of game, fish, fur-bearers, and other wildlife on national forest lands.

##### § 241.3 Federal refuge regulations.

Until a cooperative agreement has been entered into between the Chief of the Forest Service and appropriate State officials for the regulation of game as provided in § 241.2 and the necessary implementing laws or regulations have been promulgated and taken effect in order to carry out such cooperative agreement the following paragraphs shall be effective:

(a) Any person desiring to hunt or take game or non-game animals, game or non-game birds, or fish, upon any National Forest lands or waters embraced within the boundaries of a military reservation or a national game or bird refuge, preserve, sanctuary, or reservation established by or under authority of an act of Congress, shall procure in advance a permit from the Forest Supervisor. The permit shall be issued for a specified season, shall fix the bag or creel limits, and shall prescribe such other conditions as the Regional Forester may consider necessary for carrying out the purposes for which such lands have been set aside or reserved.

(b) Officials of the Forest Service will cooperate with persons, firms, corporations, and State and county officials in

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the protection, management, and utilization of game and non-game animals, game and non-game birds, and fish, upon national forest lands of the character referred to in paragraph (a) of this section. The Chief of the Forest Service may authorize the acceptance of contributions from cooperators for the payment of expenses incurred in carrying out the provisions of this section.

(c) When necessary for the protection of the forest or the conservation of animal life on refuges under paragraphs (a) and (b) of this section, the Chief of the Forest Service may sell, barter, exchange, or donate game and non-game animals. When the interests of game conservation will be promoted thereby, the Chief of the Forest Service may accept donations of game and non-game animals, game and non-game birds, and fish, or the eggs of birds and fish.

### **Subpart B—Conservation of Fish, Wildlife, and Their Habitat, Chugach National Forest, Alaska**

SOURCE: 56 FR 63463, Dec. 4, 1991, unless otherwise noted.

#### **§ 241.20 Scope and applicability.**

(a) The regulations in this subpart apply to management of the Copper River-Rude River addition and Copper River-Bering River portion of the Chugach National Forest, for the conservation of fish, wildlife and their habitat as required by the Alaska National Interest Lands Conservation Act (16 U.S.C. 539). These regulations supplement the general regulations governing use and occupancy of National Forest System lands nationwide in 36 CFR part 251—Land Uses.

(b) The rules of this subpart are applicable only on Federally-owned lands within the boundaries of the Copper River-Rude River addition and the Copper River-Bering River portion of the Chugach National Forest, Alaska, known as the Copper River Management Area and as described and displayed in the Chugach National Forest Land and Resource Management Plan, July 1984.

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(c) Nothing in these regulations is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife.

(d) The primary purpose for the management of the Copper River-Rude River addition and the Copper River-Bering River portion of the Chugach National Forest, Alaska, is the conservation of fish and wildlife and their habitat. Consistent with the regulations at part 219 of this chapter, direction for managing the fish and wildlife resources of these units shall be documented in the land management plan for the Chugach National Forest.

#### **§ 241.21 Definitions.**

For the purpose of this subpart, the terms listed in this section shall be defined as follows:

*ANILCA* refers to the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 *et seq.*)

*Federal lands* mean lands the title to which is in the United States, but does not include those lands: (1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska, or (2) interim-conveyed or patented to a Native corporation or person.

*Fish and Wildlife* means any member of the animal kingdom, including without limitation any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or dead body or part thereof. For the purposes of this subpart, birds also include any migratory or endangered bird for which protection is afforded by treaty or other international agreement.

*Land* means lands, waters, and interests therein.

*Multiple-use activity* is a specific management or permitted activity, use, measure, course of action, or treatment of National Forest System lands carried out under the statutory charter of the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 *et seq.*) and the National Forest Management Act (16 U.S.C. 1600 *et seq.*).

*Responsible Forest Officer* is the Forest Service employee who has the authority to select, authorize, permit and/or

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carry out a specific multiple-use activity.

### § 241.22 Consistency determinations.

(a) Subject to valid existing rights, a multiple-use activity may be permitted or authorized within the areas of the Chugach National Forest subject to this subpart only after a determination by the responsible Forest Officer that such activity is consistent with the conservation of fish, wildlife, and their habitat. A use or activity may be determined to be consistent if it will not materially interfere with or detract from the conservation of fish, wildlife and their habitat.

(b) Where an evaluation is made pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) for a proposed multiple-use activity, and the responsible Forest Officer prepares an environmental impact statement (EIS) or environmental assessment (EA) or categorically excludes an activity from documentation in an EA or EIS, the consistency determination required by this section for the use or activity shall be included as a part of the decision document.

(c) Guidelines that are consistent with this section may be developed for specific multiple-use activities as a part of the planning and implementation process required by the National Forest Management Act and the implementing regulations at 36 CFR part 219, National Forest System Land and Resource Management Planning.

(d) Subject to valid existing rights, the responsible Forest Officer may incorporate into any permit or other authorization issued pursuant to 36 CFR part 251 or other regulations of this chapter any reasonably practicable measures that are determined to be necessary to maintain consistency with the conservation of fish, wildlife, and their habitat as provided by this subpart.

(e) Subject to valid existing rights, the responsible Forest Officer may terminate, suspend, restrict, or require modification of any activity if it is determined that such measures are required to conserve wildlife, fish, or their habitat within the areas of the Chugach National Forest subject to

this subpart. Prior to taking action to terminate, suspend, restrict, or require modification of an activity under this section, the responsible Forest Officer shall give affected parties reasonable prior notice and an opportunity to comment, unless it is determined that doing so would likely result in irreparable harm to conservation of fish, wildlife, and their habitat.

(f) Decisions made pursuant to this section are subject to appeal only as provided in 36 CFR parts 217 and 251, subpart C.

(g) Nothing in this section affects subsistence activities carried out in accordance with § 241.23 of this subpart or other applicable law.

### § 241.23 Taking of fish and wildlife.

(a) The taking of fish and wildlife by hunting, trapping, or fishing from lands subject to the rules of this subpart is authorized in accordance with applicable State and Federal law.

(b) To the extent consistent with the conservation of fish and wildlife and their habitat in accordance with recognized scientific management principles, local rural residents who depend upon the Chugach National Forest for subsistence needs shall continue to have the opportunity to engage in a subsistence way of life on the lands to which this subpart applies pursuant to applicable State and Federal law.

(c) To the extent consistent with the conservation of fish and wildlife and their habitat, the continuation of existing uses and the future establishment and use of temporary campsites, tent, platforms, shelters, and other temporary facilities and equipment directly and necessarily related to the taking of fish and wildlife may be authorized in accordance with applicable law and regulations. However, the Forest Supervisor may restrict or prohibit facilities or uses in the Copper River-Rude River addition or Copper River-Bering River area if it is determined, after adequate notice to the affected parties, that the continuation of such facilities or uses would materially interfere with or adversely affect the conservation of fish and wildlife and their habitat.

**PART 242—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA**

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AUTHORITY: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

**Subpart A—General Provisions**

SOURCE: 67 FR 30563, May 7, 2002, unless otherwise noted.

**§ 242.1 Purpose.**

The regulations in this part implement the Federal Subsistence Management Program on public lands within the State of Alaska.

**§ 242.2 Authority.**

The Secretary of the Interior and Secretary of Agriculture issue the regulations in this part pursuant to authority vested in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. 3101–3126.

**§ 242.3 Applicability and scope.**

(a) The regulations in this part implement the provisions of Title VIII or ANILCA relevant to the taking of fish and wildlife on public land in the State of Alaska. The regulations in this part do not permit subsistence uses in Glacier Bay National Park, Kenai Fjords National Park, Katmai National Park, and that portion of Denali National Park established as Mt. McKinley National Park prior to passage of ANILCA, where subsistence taking and uses are prohibited. The regulations in this part do not supersede agency-specific regulations.

(b) The regulations contained in this part apply on all public lands, including all inland waters, both navigable and non-navigable, within and adjacent to the exterior boundaries of the following areas, and on the marine waters as identified in the following areas:

(1) Alaska Maritime National Wildlife Refuge, including the:

(i) Karluk Subunit: All of the submerged land and water of the Pacific Ocean (Sheliokof Strait) extending 3,000 feet from the shoreline between a point on the spit at the meander corner common to Sections 35 and 36 of Township 30 South, Range 33 West, and a point approximately 1¼ miles east of Rocky Point within Section 14 of Township 29 South, Range 31, West, Seward Meridian as described in Public Land Order 128, dated June 19, 1943;

(ii) Womens Bay Subunit: Womens Bay, Gibson Cove, portions of St. Paul Harbor and Chiniak Bay: All of the submerged land and water as described in Public Land Order 1182, dated July 7, 1955 (U.S. Survey 21539);

(iii) Afognak Island Subunit: A submerged lands and waters of the Pacific Ocean lying within 3 miles of the shoreline as described in Proclamation No. 39, dated December 24, 1892;

(iv) Simeonof Subunit: All of the submerged land and water of Simeonof Island together with the adjacent waters