

REGULATIONS FOR WILDERNESS ON THE NATIONAL FORESTS

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[CITE: 36CFR261.16]

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TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY

CHAPTER II--FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261--PROHIBITIONS--Table of Contents

Subpart A--General Prohibitions

Sec. 261.16 National Forest Wilderness.

The following are prohibited in a National Forest Wilderness:

(a) Possessing or using a motor vehicle, motorboat or motorized equipment except as authorized by Federal Law or regulation.

(b) Possessing or using a hang glider or bicycle.

(c) Landing of aircraft, or dropping or picking up of any material, supplies, or person by means of aircraft, including a helicopter.

[42 FR 2957, Jan. 14, 1977, as amended at 42 FR 35959, July 13, 1977;

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FR 16231, Apr. 25, 1985]

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TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY

CHAPTER II--FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261--PROHIBITIONS--Table of Contents

Subpart B--Prohibitions in Areas Designated by Order

Sec. 261.57 National Forest wilderness.

When provided by an order, the following are prohibited:

- (a) Entering or being in the area.
- (b) Possessing camping or pack-outfitting equipment, as specified in the order.
- (c) Possessing a firearm or firework.
- (d) Possessing any non-burnable food or beverage containers, including deposit bottles, except for non-burnable containers designed and intended for repeated use.
- (e) Grazing.
- (f) Storing equipment, personal property or supplies.
- (g) Disposing of debris, garbage, or other waste.
- (h) Possessing or using a wagon, cart or other vehicle.

[42 FR 2957, Jan. 14, 1977, as amended at 49 FR 25450, June 21, 1984]

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TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY

CHAPTER II--FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 293--**WILDERNESS**--PRIMITIVE AREAS

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- 293.14 Mineral leases and mineral permits.
- 293.15 Gathering information about resources other than minerals.
- 293.16 Special provisions governing the Boundary Waters Canoe Area **Wilderness**, Superior National Forest, Minnesota.
- 293.17 National Forest Primitive Areas.

Authority: 16 U.S.C. 551, 1131-1136 and 92 Stat. 1649.

Source: 38 FR 5855, Mar. 5, 1973, unless otherwise noted.

Sec. 293.1 Definition.

National Forest **Wilderness** shall consist of those units of the National **Wilderness** Preservation System which at least 30 days before the **Wilderness** Act of September 3, 1964, were designated as **Wilderness** and Wild under Secretary of Agriculture's Regulations U-1 and U-2 (Secs. 251.20, 251.21), the Boundary Waters Canoe Area as designated under Regulation U-3 (Sec. 294.1), and such other areas of the National Forests as may later be added to the System by act of Congress.

Sections

293.1 to 293.15 apply to all National Forest units now or hereafter in the National **Wilderness** Preservation System, including the Boundary Waters Canoe Area, Superior National Forest, except as that area is subject to Sec. 293.16.

Sec. 293.2 Objectives.

Except as otherwise provided in the regulations in this part, National Forest **Wilderness** shall be so administered as to meet the public purposes of recreational, scenic, scientific, educational, conservation, and historical uses; and it shall also be administered for such other purposes for which it may have been established in such a manner as to preserve and protect its **wilderness** character. In carrying out such purposes, National Forest **Wilderness** resources shall be managed to promote, perpetuate, and, where necessary, restore the **wilderness** character of the land and its specific values of solitude, physical and mental challenge, scientific study, inspiration, and primitive recreation. To that end:

(a) Natural ecological succession will be allowed to operate freely to the extent feasible.

(b) **Wilderness** will be made available for human use to the optimum extent consistent with the maintenance of primitive conditions.

(c) In resolving conflicts in resource use, **wilderness** values will be dominant to the extent not limited by the **Wilderness** Act, subsequent establishing legislation, or the regulations in this part.

Sec. 293.3 Control of uses.

(a) To the extent not limited by the **Wilderness** Act, subsequent legislation establishing a particular unit, or the regulations in this part, the Chief, Forest Service, may prescribe measures necessary to control fire, insects, and disease and measures which may be used in emergencies involving the health and safety of persons or damage to property and may require permits for, or otherwise limit or regulate, any use of National Forest land, including, but not limited to, camping, campfires, and grazing of recreation livestock.

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(b) For all prohibitions in National Forest Wildernesses, see part 261 of this chapter.

[38 FR 5855, Mar. 5, 1973, as amended at 42 FR 35959, July 13, 1977]

Sec. 293.4 Maintenance of records.

The Chief, Forest Service, in accordance with section 3(a)(2) of the **Wilderness** Act, shall establish uniform procedures and standards for the maintenance and availability to the public of records pertaining to National Forest **Wilderness**, including maps and legal descriptions; copies of regulations governing **Wilderness**; and copies of public notices and reports submitted to Congress regarding pending additions, eliminations, or modifications. Copies of such information pertaining to National Forest **Wilderness** within their respective jurisdictions shall be available to the public in the appropriate offices of the Regional Foresters, Forest Supervisors, and Forest Rangers.

Sec. 293.5 Establishment, modification, or elimination.

National Forest **Wilderness** will be established, modified, or eliminated in accordance with the provisions of sections 3(b), (d), and (e) of the **Wilderness** Act. The Chief, Forest Service, shall arrange for issuing public notices, appointing hearing officers, holding public hearings, and notifying the Governors of the States concerned and the governing board of each county in which the lands involved are located.

(a) At least 30 days' public notice shall be given of the proposed action and intent to hold a public hearing. Public notice shall include publication in the Federal Register and in a newspaper of general circulation in the vicinity of the land involved.

(b) Public hearings shall be held at locations convenient to the area affected. If the land involved is in more than one State, at least one hearing shall be held in each State in which a portion of the land lies.

(c) A record of the public hearing and the views submitted subsequent to public notice and prior to the close of the public hearing shall be included with any recommendations to the President and to the Congress with respect to any such action.

(d) At least 30 days before the date of the public hearing, suitable advice shall be furnished to the Governor of each State and the governing board of each county or, in Alaska, the borough in which the lands are located, and Federal departments and agencies concerned; and such officers or Federal agencies shall be invited to submit their views on the proposed action at the hearing or in writing by not later than 30 days following the date of the hearing. Any views submitted in response to such advice with respect to any proposed **Wilderness** action shall be included with any recommendations to the President and to the Congress with respect to any such action.

Sec. 293.6 Commercial enterprises, roads, motor vehicles, motorized equipment, motorboats, aircraft, aircraft landing facilities, airdrops, structures, and cutting of trees.

Except as provided in the **Wilderness** Act, subsequent legislation establishing a particular **Wilderness** unit, or Secs. 294.2(b), 294.2(c), and 294.2(e), paragraphs (c) and (d) of this section, and Secs. 293.7, 293.8, and 293.12 through 293.16, inclusive, and subject to existing rights, there shall be in National Forest **Wilderness** no commercial enterprises; no temporary or permanent roads; no aircraft landing strips; no heliports or helispots, no use of motor vehicles, motorized equipment, motorboats, or other forms of mechanical transport; no landing of aircraft; no dropping of materials, supplies, or persons from aircraft; no structures or installations; and no cutting of trees for nonwilderness purposes.

(a) Mechanical transport, as herein used, shall include any contrivance which travels over ground, snow, or water on wheels, tracks, skids, or by floatation and is propelled by a nonliving power source contained or carried on or within the device.

(b) Motorized equipment, as herein used, shall include any machine

activated by a nonliving power source, except that small battery-powered, hand-carried devices such as flashlights, shavers, and Geiger counters are not classed as motorized equipment.

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(c) The Chief, Forest Service, may authorize occupancy and use of National Forest land by officers, employees, agencies, or agents of the Federal, State, and county governments to carry out the purposes of the **Wilderness** Act and will prescribe conditions under which motorized equipment, mechanical transport, aircraft, aircraft landing strips, heliports, helispots, installations, or structures may be used, transported, or installed by the Forest Service and its agents and by other Federal, State, or county agencies or their agents, to meet the minimum requirements for authorized activities to protect and administer

the **Wilderness** and its resources. The Chief may also prescribe the conditions under which such equipment, transport, aircraft, installations, or structures may be used in emergencies involving the health and safety of persons, damage to property, or other purposes.

(d) The Chief, Forest Service, may permit, subject to such restrictions as he deems desirable, the landing of aircraft and the use of motorboats at places within any **Wilderness** where these uses were established prior to the date the **Wilderness** was designated by Congress as a unit of the National **Wilderness** Preservation System. The Chief may also permit the maintenance of aircraft landing strips, heliports, or helispots which existed when the **Wilderness** was designated by Congress as a unit of the National **Wilderness** Preservation System.

Sec. 293.7 Grazing of livestock.

(a) The grazing of livestock, where such use was established before the date of legislation which includes an area in the National **Wilderness** Preservation System, shall be permitted to continue under the

general regulations covering grazing of livestock on the National Forests and in accordance with special provisions covering grazing use in units of National Forest **Wilderness** which the Chief of the Forest Service may prescribe for general application in such units or may arrange to have prescribed for individual units.

(b) The Chief, Forest Service, may permit, subject to such conditions as he deems necessary, the maintenance, reconstruction, or relocation of those livestock management improvements and structures which existed within a **Wilderness** when it was incorporated into the National **Wilderness** Preservation System. Additional improvements or structures may be built when necessary to protect **wilderness** value.

Sec. 293.8 Permanent structures and commercial services.

Motels, summer homes, stores, resorts, organization camps, hunting and fishing lodges, electronic installations, and similar structures and uses are prohibited in National Forest **Wilderness**. The Chief, Forest Service, may permit temporary structures and commercial services within National Forest **Wilderness** to the extent necessary for realizing the recreational or other **wilderness** purposes, which may include, but are not limited to, the public services generally offered by packers,

outfitters, and guides.

Sec. 293.9 [Reserved]

Sec. 293.10 Jurisdiction over wildlife and fish.

Nothing in the regulations in this part shall be construed as affecting the jurisdiction or responsibility of the several States with respect to wildlife and fish in the National Forests.

Sec. 293.11 Water rights.

Nothing in the regulations in this part constitutes an expressed or implied claim or denial on the part of the Department of Agriculture as to exemption from State water laws.

Sec. 293.12 Access to surrounded State and private lands.

States or persons, and their successors in interest, who own land completely surrounded by National Forest **Wilderness** shall be given access as provided in subpart D of part 251 of this chapter.

[56 FR 27419, June 14, 1991]

Sec. 293.13 Access to valid occupancies.

Persons with valid occupancies wholly within National Forest **Wilderness** shall be permitted access to such surrounded occupancies by means consistent with the preservation of National Forest **Wilderness** which have

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been or are being customarily used with respect to other such occupancies surrounded by National Forest **Wilderness**. The Forest Service will, when appropriate, issue permits which shall prescribe the routes of travel to and from the surrounded occupancies, the mode of travel, and other conditions reasonably necessary to preserve the National Forest **Wilderness**.

[39 FR 31321, Aug. 28, 1974]

Sec. 293.14 Mineral leases and mineral permits.

(a) All laws pertaining to mineral leasing shall extend to each National Forest **Wilderness** for the period specified in the **Wilderness** Act or subsequent establishing legislation to the same extent they were applicable prior to the date the **Wilderness** was designated by Congress as a part of the National **Wilderness** Preservation System. No person shall have any right or interest in or to any mineral deposits which may be discovered through prospecting or other information-gathering activity after the legal date on which the laws pertaining to mineral leasing cease to apply to the specific **Wilderness**, nor shall any person after such date have any preference in applying for a mineral lease, license, or permit.

(b) Mineral leases, permits, and licenses covering lands within National Forest **Wilderness** will contain reasonable stipulations for the protection of the **wilderness** character of the land consistent with the use of the land for purposes for which they are leased, permitted, or licensed. The Chief, Forest Service, shall specify the conditions to be included in such stipulations.

(c) Permits shall not be issued for the removal of mineral materials commonly known as common varieties under the Minerals Act of July 31, 1947, as amended and supplemented (30 U.S.C. 601-604).

[39 FR 31321, Aug. 28, 1974]

Sec. 293.15 Gathering information about resources other than minerals.

(a) The Chief, Forest Service, shall allow any activity, for the purposes of gathering information about resources, other than minerals, in National Forest **Wilderness**, except that any such activity for gathering information shall be carried on in a manner compatible with the preservation of the **wilderness** environment. Prospecting for minerals

or any activity for the purpose of gathering information about minerals in National Forest **Wilderness** is subject to the regulations in part 252 of this chapter.

(b) [Reserved]

(c) Any person desiring to use motorized equipment, to land aircraft, or to make substantial excavations for the purpose of gathering information about resources, other than minerals, shall apply in writing to the Office of the Forest Supervisor or District Ranger having jurisdiction over the land involved. Excavations shall be considered substantial which singularly or collectively exceed 200 cubic

feet within any area which can be bounded by a rectangle containing 20 surface acres. Such use or excavation may be authorized by a permit issued by the Forest Service. Such permits may provide for the protection of National Forest resources, including **wilderness** values, protection of the public, and restoration of disturbed areas, including the posting of performance bonds.

(d) Prospecting for water resources and the establishment of new reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest and the subsequent maintenance of such facilities, all pursuant to section (4)(d)(4)(1) of the **Wilderness** Act, will be permitted when and as authorized by the President.

[39 FR 31321, Aug. 28, 1974, as amended at 42 FR 35960, July 13, 1977]

Sec. 293.16 Special provisions governing the Boundary Waters Canoe Area

Wilderness, Superior National Forest, Minnesota.

(a) Motorboat use. (1) For purposes of this section, motorboats permitted to operate in the BWCA **Wilderness** are defined as watercraft propelled by a gasoline or electric powered motor with the propeller below the waterline.

(2) Motorboats may operate without restrictions on motor size or number of motors on Sand Point Lake, Little Vermilion Lake, Loon Lake,

Loon

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River, and that portion of Lac La Croix which lies south of Snow Bay and east of Wilkins Bay, all in Saint Louis County.

(3) Motorboats with a motor or combination of motors totaling no more than 25 horsepower may operate on Trout Lake in Saint Louis County, Fall Lake, Moose Lake, Newfound Lake, Newton Lake, Sucker Lake, Snowbank Lake, South Farm Lake, and Basswood Lake, except that portion of Basswood Lake generally north of the narrows at the north end of Jackfish Bay and north of a point on the International Boundary between Ottawa Island and Washington Island, all in Lake County, and East Bearskin Lake and Saganaga Lake, except that portion west of American Point in Cook County.

(4) Motorboats with a motor or combination of motors totaling no more than 10 horsepower may operate on Clearwater Lake, North Fowl Lake, South Fowl Lake, Alder Lake, Canoe Lake, Sea Gull Lake, and Island River east of Lake Isabella, all in Lake County, except that motorboats may not operate--

(i) After January 1, 1999 on that portion of Sea Gull Lake west of Threemile Island, and

(ii) After January 1, 1994, on Brule Lake in Cook County or until the termination of the operation of the resort adjacent to Brule Lake in operation as of 1977, whichever occurs first.

(5) Motorboats with a combination of motors that exceed 25 horsepower may travel on that portion of Saganaga Lake in Cook County described as the Saganaga Corridor extending from the Saganaga Narrows north to the International Boundary east of Campers, Clark and Horseshoe Islands and west of Oskenonton Island; provided that the motor or motors in operation at one time do not exceed 25 horsepower.

(b) Mechanical and mechanized portages. (1) BWCA visitors may use portage wheels and other non-motorized devices to transport watercraft over the following routes:

(i) The portages along the International Boundary.

(ii) Four Mile Portage from Fall Lake to Hoist Bay of Basswood Lake.

(iii) The portage from Back Bay to Pipestone Bay of Basswood Lake.

(iv) The portages from Fall Lake to Newton Lake to Pipestone Bay of Basswood Lake.

(v) The portage from Vermilion Lake to Trout Lake.

(2) The Forest Service may authorize, by special use permit, the use of motor vehicles to transport watercraft over the following portages:

(i) Four Mile Portage From Fall Lake to Hoist Bay of Basswood Lake.

(ii) Vermilion Lake to Trout Lake.

(iii) Prairie Portage from Sucker Lake to Basswood Lake

(iv) Loon River to Loon Lake and from Loon Lake to Lac La Croix.

(c) Snowmobile use. (1) A snowmobile is defined as a self-propelled, motorized vehicle not exceeding forty inches in width designed to operate on ice and snow, having a ski or skis in contact with the snow and driven by a track or tracks.

(2) The Forest Service permits use of snowmobiles only on the following routes:

(i) The overland portages in Saint Louis County from Crane Lake to Little Vermilion Lake in Canada.

(ii) The route in Cook County from Sea Gull River along the eastern portion of Saganage Lake to Canada.

(3) The Forest Service may issue special-use authorizations to use snowmobiles for the grooming of specified cross-country ski trails near existing resorts.

[50 FR 16231, Apr. 25, 1985]

Sec. 293.17 National Forest Primitive Areas.

(a) Within those areas of National Forests classified as Primitive on the effective date of the **Wilderness** Act, September 3, 1964, there shall be no roads or other provision for motorized transportation, no commercial timber cutting, and no occupancy under special-use permit for

hotels, stores, resorts, summer homes, organization camps, hunting and fishing lodges, or similar uses: Provided, That existing roads over National Forest lands reserved from the public domain and roads necessary for the exercise of a statutory right of ingress and egress may be allowed

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under appropriate conditions determined by the Chief, Forest Service.

(b) Grazing of domestic livestock, development of water storage projects which do not involve road construction, and improvements necessary for the protection of the National Forests may be permitted, subject to such restrictions as the Chief, Forest Service, deems desirable. Within Primitive Areas, when the use is for other than administrative needs of the Forest Service, use by other Federal agencies when authorized by the Chief, and in emergencies, the landing of aircraft and the use of motorboats are prohibited on National Forest land or water unless such use by aircraft or motorboats has already become well established, the use of motor vehicles is prohibited, and the use of other motorized equipment is prohibited except as authorized by the Chief. These restrictions are not intended as limitations on statutory rights of ingress and egress or of prospecting, locating, and developing mineral resources.

(c) All prohibitions for those areas of National Forest classified as Primitive on the effective date of the **Wilderness** Act, September 3, 1964, are in part 261.

(78 Stat. 890, 16 U.S.C. 1131-1136; 74 Stat. 215, 16 U.S.C. 528-531)

[38 FR 5855, Mar. 5, 1973, as amended at 42 FR 35960, July 13, 1977]