

# USDA Forest Service Update September 2008



## **SUBJECT: Piscicide Applications on National Forest System Lands - Amendments of CFRs and Revisions of Forest Service Manual and Handbooks**

**BACKGROUND:** The Forest Service and State agencies have enjoyed long-standing and mutually beneficial partnerships in the protection and management of fish and wildlife populations on National Forest System lands. Current regulations and the variable interpretation by field units, in combination with the special use authorization process, have resulted in project delays, including those proposed to address the threat of invasive aquatic species. At the Chief's direction, a proposed rule for the revision of the CFR on this subject has been completed.

### **Current Actions**

1. The proposed amendment to the CFR, as published in the Federal Register, would result in three changes:

- **36 CFR 241** - Cooperative efforts with State agencies would no longer require a special use authorization for piscicide applications on NFS lands outside of designated Wild and Scenic Rivers and congressionally designated Wilderness and Wilderness Study areas subject to the State meeting specific criteria for exemption.

#### **Criteria include:**

- a. Compliance with all Federal laws and regulations
  - b. Consistency with the LRMP plus Aquatic Resource Recovery Plan and Species Plan
  - c. Use of registered EPA piscicides and certified applicators
  - d. Purpose of project is for management of aquatic resources
  - e. Project is designed in concert with the local Forest to address any issues related to ecosystem functions and existing uses on NFS lands
  - f. Project includes a plan for monitoring within 60 days of treatment
  - g. State must report annually the amount of pesticides used on NFS lands
- **36 CFR 251** – A special use authorization is not required for the application of piscicides by State agencies (subject to the State meeting the criteria at 36 CFR 241).
  - **36 CFR 261** – Identifies State piscicide applications as an exception to the prohibition of pesticide use on NFS lands (reference part 241 criteria) and allows for a closure order when such projects do not meet the criteria in part 241 or in the event of an emergency (e.g., fire), and may be used to prohibit State piscicide applications on NFS lands.

2. The Public comment period closed January 16, 2007 and resulted in 148 original comments and 1439 form letters. The Content Analysis of the comments is currently being developed and will help provide guidance as to how best proceed with the updates.

3. Final drafts of the Forest Service Manuals (Sections 2151, 2152, 2153, 2610, 2651 and 2719) and Handbook (2109.14) will be prepared to reflect the final changes to the CFRs.

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