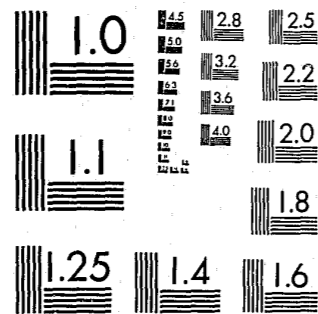


National Criminal Justice Reference Service



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MICROCOPY RESOLUTION TEST CHART  
NATIONAL BUREAU OF STANDARDS-1963-A

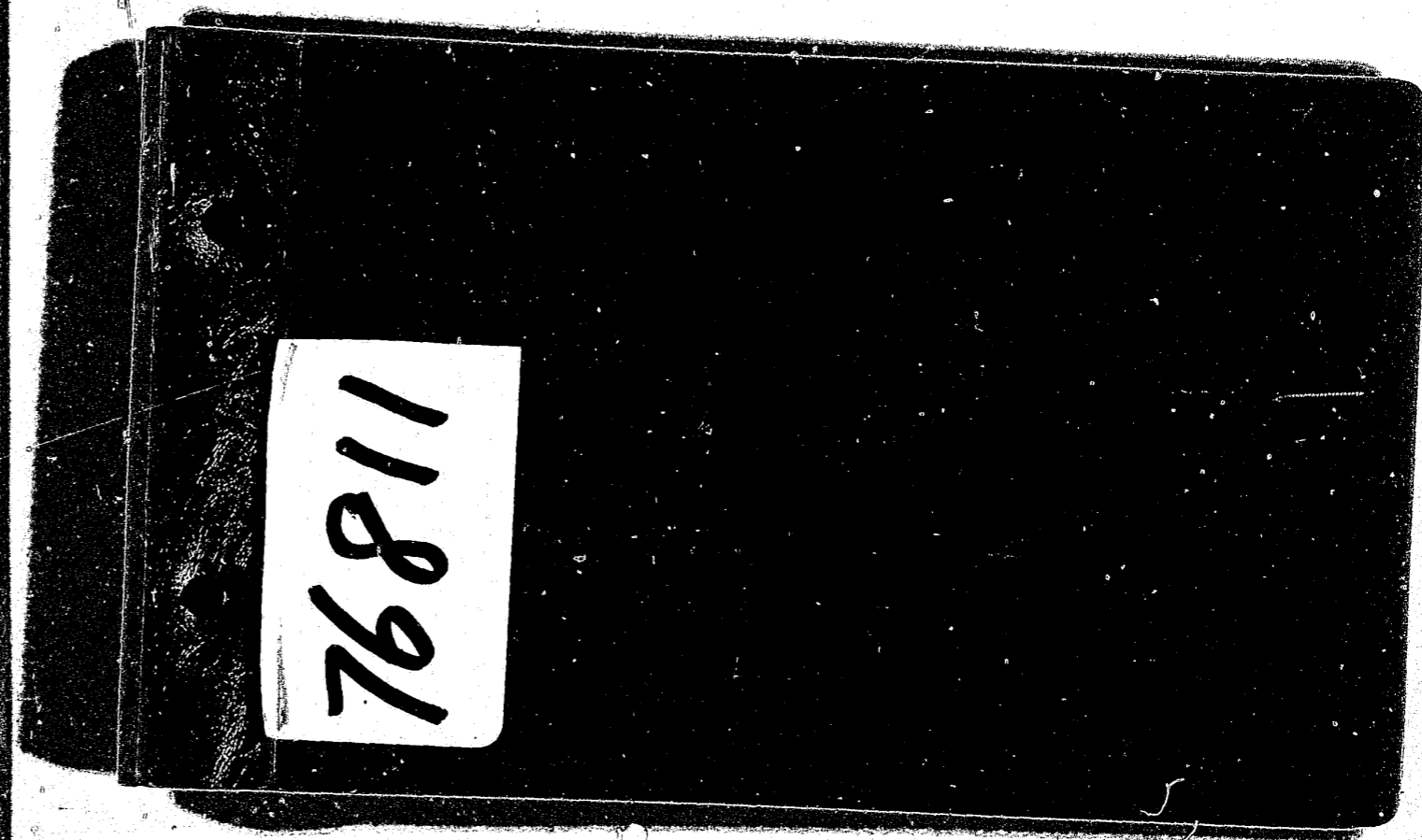
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National Institute of Justice  
United States Department of Justice  
Washington, D. C. 20531

DATE FILMED

6/18/81



FOREST SERVICE LAW ENFORCEMENT, a handbook prepared by the Fiscal and Accounting Management Staff Group. U.S. Department of Agriculture, Forest Service, Alaska Region, P.O. Box 1628, Juneau, Alaska 99802 (John A. Sandor, Regional Forester). June 1979

#### PREFACE

This field handbook has been developed to assist employees in administering National Forest land. It is a guide to the use of law enforcement as a tool in the protection of people, property, and resources. Also, it will help in reaching our Host Program objective of assuring the public safe, peaceful, and enjoyable visits to their National Forests.

NCJRS

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#### CONTENTS

- CHAPTER I Law Enforcement Policy, Objectives, and Responsibilities
- CHAPTER II Authority of Forest Officers
- CHAPTER III Federal Laws about Greater Than Petty Offenses.
- CHAPTER IV Action for Federal Offenses
- CHAPTER V Code of Federal Regulations with Bail Schedule
- CHAPTER VI Statistical Law Enforcement Reports: Instructions for issuing and processing--  
\*Violation Notices  
\*Warning Notices  
\*Incident Reports  
\*Case Reports
- CHAPTER VII Glossary of Terms

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Chapter I

Law Enforcement Policy, Objectives  
and Responsibilities

POLICY

One of the more important considerations in Regional law enforcement policy is that most of the violations of Federal regulations on Forest lands are not intentional. In most instances, violations of Federal regulations are from lack of knowledge, understanding, or good judgment. For example, the tourist who allows a dog to run loose in a developed recreation area without being leashed. This visitor has most likely not read the Federal regulations posted at the entrance of the developed recreation area. A verbal or written warning would be appropriate law enforcement action for this type of situation. In short, good judgment is a necessary ingredient to mold law enforcement into Regional policy. Law enforcement efforts shall be aimed toward assisting all visitors to obtain a safe, peaceful, and enjoyable experience in their use of the National Forest system and toward protecting Federal property.

Any employee taking enforcement action must recognize his/her responsibility as a public servant. The officer must be dressed in an officially presentable manner or possess adequate identification. The officer must never permit personal feelings, prejudices, animosities, friendships, or the appearance of the violator to influence his/her decisions:

Nonflagrant violators may be issued a written Warning Notice. Flagrant, persistent, malicious, or intentional violation of regulations or laws will be handled by a Notice of Violation, Complaint, or Information. Instructions for issuing Warning Notices and Notices of Violation are contained in Chapter VI. Complaints or Information actions will be initiated only for misdemeanors and felonies and should be handled by the Forest/Area Law Enforcement Coordinator or Special Agent. Complaints filed for violation of Federal regulations, which are petty offenses, usually result in a summons being issued in lieu of an arrest.

Every Forest Officer has a responsibility to be observant for violation of laws and regulations affecting lands administered by the Forest Service, to take necessary and appropriate action within the officer's authority, and to report violations to a superior. However, it is impractical and undesirable to train all employees in the techniques of taking appropriate law enforcement action. Again, it is "good judgment" for Forests to designate employees with the best attitude and most training as those employees in their unit to take law enforcement action against alleged violators.

RESPONSIBILITY

- a. Informing and educating the public of existing laws and regulations and their importance in the protection of Forest resources.
- b. Applying consistent law enforcement by taking proper action against all violators.
- 2. Public Protection - Provide National Forest visitors with the best possible protection of their person and property by--
  - a. Being alert to situations which would lead to crimes against a person or property.
  - b. Collecting information pertinent to a reported crime and notifying the responsible law enforcement agency.
  - c. Lending assistance to State enforcement agencies as requested.

Forest Officers will not often be faced with the necessity of making an arrest. Making an arrest should not be undertaken except in extreme cases, and then only to protect life and/or property. Wherever possible, assistance should be obtained from State Troopers if an arrest is necessary. The Forest/Area Law Enforcement Coordinator must be immediately notified after an arrest is effected. Usually, there is ample time for Forest Officers to investigate and collect evidence to certify the charges and then obtain a summons or warrant.

Employees taking enforcement action may have to take reasonable and adequate defensive action needed to protect the life or safety of other Forest personnel and themselves. Defensive action is defined as that action or reaction necessary to counter physical force. It shall be the minimum action needed to prevent bodily harm to some person.

The carrying of any firearms in connection with law enforcement work requires the Regional Forester's advance written approval. Such approval will not be given to employees who have not received the minimum training required by FSM 5371.

The Fiscal and Accounting Management Staff Group will direct the Regional law enforcement program.

OBJECTIVES

The basic objective of law enforcement action is to obtain voluntary compliance through understanding and appreciation of the need for resource and property protection.

- 1. Resource Protection - Prevent violations of laws and regulations applicable to the protection and management of the National Forest lands and property under Forest Service control by--

Chapter II  
Authority of Forest Officers

The United States holds proprietary jurisdiction on virtually the entire National Forest system. The authority and responsibility of State and local government is in no way diminished.

Under this proprietorial jurisdiction, the Forest Service can enforce Federal laws and Federal Regulations, which primarily pertain to regulation of use with emphasis upon resource protection. The States have legal authority and responsibility to enforce the laws relevant to crimes against persons and preserving the peace.

FEDERAL LAW ENFORCEMENT

Authority - Forest Officers under 16 USC 559 have authority to enforce Federal laws and regulations pertaining to the National Forest, National Grasslands, and other lands under Forest Service control.

ENFORCEMENT OF STATE LAWS

Forest Officers have no authority by virtue of their appointment to enforce State laws and local ordinances. When desirable for the protection and control of certain areas, special authority to enforce State laws can be obtained from State officials through cooperative appointment procedures. When Forest Officers enforce State laws, they are acting on behalf of the State and not the United States.

In some instances, State and Federal jurisdiction overlap. An example is the fish and game laws. The Forest Officer may prove the elements of a State game law violation before the U.S. Magistrate. In this instance, the violation of the State law would also be a Federal violation. However, it is Regional policy that Forest Officers obtain all information and facts on State violations they may observe and relate the facts to the Wildlife Protection Officer or State Troopers for prosecutive action. The Forest Officer may be asked to sign a complaint or testify as a witness for the State.

### Chapter III

#### Federal Laws about Greater Than Petty Offenses (FSM 5330)

The following Title 18 USC Laws may be utilized by Forest Officers in the administration of National Forest lands. Felony or misdemeanor offenders cannot be cited to the U.S. Magistrate by the Pay-by-Mail system. A formal complaint (FSM 5355.3) must be filed by the Forest Officer and/or Criminal Investigator conducting the investigation. (See FSM 5330 for full explanation of the laws.) Copies of the U.S. Code can also be obtained from the Regional Fiscal and Accounting Management Staff Group.

#### GENERAL

18 U.S.C. - 1 Offenses Classified. Notwithstanding any act of Congress to the contrary, based on their seriousness, crimes can be classified into three categories:

1. Felony (F) - A criminal offense punishable by death; imprisonment for a term exceeding one year, a fine, or both.
2. Misdemeanor (M) - A criminal offense that is not a felony.
3. Petty Offense (P) - A misdemeanor for which the penalty does not exceed imprisonment for a period of six months or a fine of not more than \$500, or both.

18 U.S.C. - 2 Principals (F or M)

18 U.S.C. - 3 Accessory After the Fact (F or M)

18 U.S.C. - 4 Misprision of Felony (F)

18 U.S.C. - 371 Conspiracy to Commit Offense or to Defraud U.S (F)

18 U.S.C. - 372 Conspiracy to Impede  
or Injure Officer (F)

18 U.S.C. - 912 Officer or Employee of  
the U.S. (False Imper-  
sonation) (F)

18 U.S.C. - 1001 Statements or Entries  
Generally (Fraud) (F)

18 U.S.C. - 1621 Perjury Generally (F)

FIRE VIOLATIONS

Title 18 U.S.C. - 1855 Timber Set Afire (F)

Title 18 U.S.C. - 1856 Fires Left  
Unattended and unextin-  
guished (M or P)

TIMBER VIOLATIONS

Title 18 U.S.C. - 1852 Timber Removed or  
Transported (M or P)

Title 18 U.S.C. - 1853 Trees Cut or Injured  
(M or P)

Title 18 U.S.C. - 1854 Trees Boxed for  
Pitch or Turpentine (M  
or P)

Title 18 U.S.C. - 641 Public Money,  
Property or Records (M or  
P)

Title 18 U.S.C. - 1361 Government Property  
or Contracts (M or P)

LIVESTOCK VIOLATIONS

Title 18 U.S.C. - 1857 Fences Destroyed;  
Livestock Entering (P)

WILDLIFE VIOLATIONS

Title 16 U.S.C. - 553 Duties of Official of  
Forest Service; Stock  
Laws; Protection of Fish  
and Game (M or P)

PROPERTY VIOLATIONS

Title 18 U.S.C. - 641 Public Money,  
Property, or Records (M or  
P)

Title 18 U.S.C. - 1361 Government Property  
or Contracts (M or P)

Chapter IV

Action for Federal Offenses

For law enforcement action, other than preventive, the following steps should be taken if an offense is suspected:

1. Determine if a Federal law or State law was violated.
  - a. Identify which law or regulation was violated.
  - b. If a law or regulation was violated and the offender is present at the scene of the crime, follow instructions 1 through 12. If a law or regulation was violated and the offender is not present at the scene of the crime, follow the asterisked instructions 6 and 8 through 11.
    - (1) Identify yourself to the offender by your name and title.
    - (2) Identify the offender; ask for identification, drivers license, etc., or record Vehicle License Number. If possible, obtain subject's home and occupation address and phone number. Ascertain that the identification and address are current. Also, obtain names of persons with offender.
    - (3) Inform the person of the law or regulation violated.
    - (4) Determine appropriate course of action: (a) education, (b) written or verbal warning, (c) notice of violation, or (d) continued investigation.
    - (5) Record any statements made voluntarily by the offender or persons accompanying the offender.



- \* (6) Record the names and addresses of witnesses and record any statements made by them; ask questions to establish facts.
- (7) If additional accusatory information is needed from the offender, you must advise a person of his/her Constitutional Rights before you ask questions. Exhibit I shows a sample form.
- \* (8) Protect evidence of the crime scene, if at all possible (if applicable).
- \* (9) Do not conduct residence searches or make seizures unless you receive instructions and are specifically directed by a State law enforcement officer, or after contact with the U.S. Attorney. (A warrant will probably be needed.)
- \* (10) Redeem evidence which may be lost or destroyed unless quick action is taken; for example, burning evidence or removable timber.
- \* (11) Notify the Forest Law Enforcement Coordinator as soon as possible and follow his/her instructions.
- (12) All records should show time, date, and place of all actions taken and names of all people involved.

DRUG RELATED PROBLEMS

Because of the complex legal ramifications involved, Forest Officers are not advised to make in-depth investigations of narcotic law violations. Violation of drug or control substance laws should be referred to

the State Troopers. If you suspect that large scale drug trafficking operations are occurring on Forest lands, and drugs are being used in Forest Service vehicles or Forest Service dwellings, notify the Forest Law Enforcement Coordinator.

JUVENILES - (FSM 5355.2)

Definition - Under Federal Law, a juvenile is a person who has not reached his/her 18th birthday.

Policy

1. Federal Law prohibits juvenile prosecution in a U. S. Court without prior approval of the U. S. Attorney.
2. If the violation constitutes a State or local offense, prosecution should be obtained in State or local court.
3. Interviews of juveniles should be made in the presence of a witness, preferably a parent.
4. Names of juveniles involved in a criminal offenses shall not be released.
5. A Violation Notice may be issued to juveniles for petty offenses when imprisonment is not likely.

EXHIBIT I

ADVICE OF RIGHTS

I, \_\_\_\_\_ have been advised by \_\_\_\_\_  
\_\_\_\_\_ that I am to be questioned about \_\_\_\_\_

and that I have the following rights:

I have the right to remain silent.

Anything I say can and will be used against me in the court or other proceedings.

I have the right to talk to a lawyer for advice before answering any questions and to have him with me during questioning.

If I cannot afford a lawyer, one will be appointed for me before any questioning if I wish, at no cost to me.

If I decide to answer questions now without a lawyer present, I still have the right to stop answering at any time. I also have the right to stop answering at any time until I talk to a lawyer.

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed: \_\_\_\_\_

Witness: \_\_\_\_\_ Place: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Time: \_\_\_\_\_ Time: \_\_\_\_\_

Reference: FSM 5320

IV-4

Chapter V

Code of Federal Regulations  
with Bail Schedule

(16 USC 551 - All Petty Offenses)

The Organic Administration Act of 1897 as amended, grants authority to the Secretary of Agriculture to make such rules and regulations and establish such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use to preserve the Forests thereon from destruction; and any violation of . . . such rules and regulations shall be punished by a fine of not more than \$500 or imprisonment for not more than 6 months, or both...

The following Bail Forfeiture Schedule has been approved by the United States District Court for the District of Alaska and should be used for the purpose of issuing Violations Notices. If more detail is required refer to the appropriate CFR section or FSM 5335.

The following CFR definitions should be used in connection with the Bail Schedule:

§ 261.1 Scope.

The prohibitions in this part apply, except as otherwise provided, when--

(a) An Act or omission occurs in the National Forest System or on a Forest development road or trail.

(b) An act or omission affects, threatens, or endangers property of the United States administered by the Forest Service.

(c) An act or omission affects, threatens, or endangers a person using, or engaged in the protection, improvement or administration of the National Forest System or a Forest development road or trail.

§ 261.2 Definitions.

The following definitions apply to this part:

(a) "Campfire" means a fire, not within any building, mobile home or living accommodation mounted on a motor vehicle, which is used for cooking, personal warmth, lighting, ceremonial, or esthetic purposes. "Fire" includes campfire.

(b) "Camping" means the temporary use of National Forest System lands for the purpose of overnight occupancy without a permanently-fixed structure.

(c) "Camping equipment" means the personal property used in or suitable for camping, and includes any vehicle used for transport and all personal property in possession of a person camping.

(d) "Developed recreation site" means an area which has been improved or developed for recreation.

(e) "Forest development road" means a road wholly or partly within or adjacent to and serving a part of the National Forest System and which has been included in the Forest Development Road System Plan.

(g) "Forest Officer" means an employee of the Forest Service.

(h) "National Forest System" includes all National Forest lands and waters reserved or withdrawn from the public domain of the United States, National Forest lands and waters acquired through purchase, exchange, donation, or other means, National Grasslands, and land utilization projects and waters administered under Title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010-1012), and other lands, waters, or interests therein acquired under the Wild and Scenic River Act (16 U.S.C. 1271-1287) or National Trails Systems Act (16 U.S.C. 1241-1249).

(i) "National Forest wilderness" means those parts of the National Forest System which were designated units of the National Wilderness Preservation System by the Wilderness Act of September 3, 1964, and such other areas of the National Forest System as are added to the wilderness system by act of Congress.

(j) "Person" means natural person, corporation, company, partnership, trust, firm, or association of persons.

(k) "Permission" means oral authorization by a Forest Officer.

(l) "Permit" means authorization in writing by a Forest Officer.

(m) "Primitive Areas" are those areas within the National Forest System classified as "Primitive" on the effective date of the Wilderness Act, September 3, 1964.

(n) "Publicly nude" means nude in any place where a person may be observed by another person. Any person is nude if the person has failed to cover the rectal area, pubic area, or genitals. A female person is also nude if she has failed to cover both breasts below a point immediately above the top of the areola. Each such covering must be fully opaque. No person under the age of 10 years shall be considered publicly nude.

(o) "State" means any State, the Commonwealth of Puerto Rico, and the District of Columbia.

(p) "State law" means the law of any State in whose exterior boundaries an act or omission occurs, regardless of whether State law is otherwise applicable.

(q) "Stove fire" means a campfire built inside an enclosed stove or grill, a portable brazier, or a pressurized liquid or gas stove, including a spaceheating device.

(r) "Unauthorized livestock" means any cattle, sheep, goat, hog or equine not defined as a wild free-roaming horse or burro, by § 231.11 (a)(2), which is not authorized by permit to be upon the land on which the livestock are located and which is not related to use authorized by a grazing permit.

#### PART 261--PROHIBITIONS

##### Subpart A--General Prohibitions

- 261.1 Scope.
- 261.2 Definitions.
- 261.3 Interfering with forest officers prohibited.
- 261.4 Disorderly conduct.
- 261.5 Fire.
- 261.6 Timber and other forest products.
- 261.7 Livestock.
- 261.8 Fish and wildlife.
- 261.9 Property.
- 261.10 Occupancy and use.
- 261.11 Sanitation.
- 261.12 Forest development roads and trails.
- 261.13 Use of vehicles off roads.
- 261.14 Developed recreation sites.
- 261.15 Admission, recreation use and special recreation permit fees.
- 261.16 National Forest wilderness.
- 261.17 Boundary Waters Canoe Area, Superior National Forest.
- 261.18 Pacific Crest National Scenic Trail.
- 261.19 National Forest primitive areas.
- 261.20 Unauthorized use of "Smokey Bear" and "Woodsy Owl" symbol.

##### Subpart B--Prohibitions in Areas Designated by Order

- 261.50 Orders.
- 261.51 Posting.
- 261.52 Fire.
- 261.53 Special closures.

- 261.54 Forest development roads.
- 261.55 Forest development trails.
- 261.56 Use of vehicles off forest development roads.
- 261.57 National Forest wilderness.
- 261.58 Occupancy and use.

##### Subpart C--Prohibitions in Regions

- 261.70 Issuance of regulations.
- 261.71 Regulations applicable to Region 1, Northern Region as defined in § 200.2 [Reserved].
- 261.72 Regulations applicable to Region 2, Rocky Mountain Region, as defined in § 200.2 [Reserved].
- 261.73 Regulations applicable to Region 3, Southwestern Region, as defined in § 200.2 [Reserved].
- 261.74 Regulations applicable to Region 4, Intermountain Region, as defined in § 200.2 [Reserved].
- 261.75 Interim regulation applicable to Region 5, California Region, as defined in § 200.2.
- 261.76 Regulations applicable to Region 6, Pacific Northwest Region, as defined in § 200.2 [Reserved].
- 261.77 Prohibitions in Region 8, Southern Region.
- 261.78 Regulations applicable to Region 9, Eastern Region, as defined in § 200.2 [Reserved].
- 261.79 Regulations applicable to Region 10, Alaska Region, as defined § 200.2 [Reserved].

AUTHORITY: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 1011(f)); 82 Stat. 916 (16 U.S.C. 1281(d)); 82 Stat. 922 (16 U.S.C. 1246(i)), unless otherwise noted.

SOURCE: 42 FR 2957, Jan. 14, 1977, unless otherwise noted.

§ 261.3 Interfering with forest officers prohibited.

Threatening, resisting, intimidating, or interfering with any forest officer engaged in or on account of the performance of his official duties in the protection, improvement, or administration of the National Forest System is prohibited.

§ 261.4 Disorderly conduct.

The following are prohibited:

- (a) Engaging in fighting, or in threatening or abusive behavior.
- (b) Inciting or participating in a riot.
- (c) Making unreasonable noise.

BAIL SCHEDULE  
(January 24, 1979)  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

ORDER AMENDING RULE 8 )  
PAYMENT FIXED SUM IN LIEU )  
OF APPEARANCE ) \_\_\_\_\_

IT IS HEREBY ORDERED that the Bail Forfeiture Schedule of the Court pursuant to Local Rule Eight, Payment Fixed Sum in Lieu of Appearance, be amended and supplemented as follows:

36 CFR 261 - Prohibitions

Subpart A - General Prohibitions

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
	<u>INTERFERING WITH FOREST OFFICERS</u>	
36 CFR 261.3	Threatening, resisting, intimidating or interfering	\$ 50
	<u>DISORDERLY CONDUCT</u>	
36 CFR 261.4(a)	Fighting, threatening or abusive behavior.	\$ 35
261.4(b)	Inciting or participating in riot.	*
261.4(c)	Unreasonable noise	\$ 15

\*Requires Mandatory Appearance

<u>FIRE</u>		
36 CFR 261.5(a)	Throwing or placing any ignited substance where it may start a fire	\$ 50
261.5(b)	Firing any tracer bullet or incendiary ammunition	\$ 50
261.5(c)	Causing timber, trees, slash, brush, or grass to burn except as authorized	\$ 50
261.5(d)	Leaving fire without completely extinguishing	\$ 50
261.5(e)	Allowing fire to escape	*
261.5(f)	Building, attending, maintaining or using fire where it may escape	\$ 25
<u>TIMBER AND FOREST PRODUCTS</u>		
36 CFR 261.6(a)	Cutting, killing, damaging or removing any timber or other forest product except as authorized	\$ 50 +\$10 (for each tree cut)
261.6(b)	Cutting any standing tree under permit or contract before designated for cutting	\$ 50 + \$10 (for each tree cut)

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
<u>TIMBER AND FOREST PRODUCTS</u>		
36 CFR 261.6(c)	Removing timber or other product under permit or contract except to place designated for scaling, or removing it from that place before it is accounted for by a Forest Officer	*
261.6(d)	Marking trees or products in a manner similar to that used by agency in designation	\$ 50
261.6(e)	Loading, removing, or hauling timber or product without identification as required by permit or contract	\$ 35
261.6(f)	Selling or exchanging product obtained under the Free Use Permit	\$ 35
261.6(g)	Timber export or substitution restriction	\$100
<u>LIVESTOCK</u>		
36 CFR 261.7(a)	Unauthorized livestock	\$ 25
261.7(b)	Failure to remove livestock when requested	\$ 50
261.7(c)	Failure to close gate or entry	\$ 15
261.7(d)	Molesting or removing impounded livestock	\$ 50

<u>FISH AND WILDLIFE on refuges or preserves within National Forests</u>		
36 CFR 261.8(a)	Hunting, killing, or molesting fish and wildlife	*
261.8(b)	Unlawful possession of weapons	*
261.8(c)	Unlawful possession of equipment for hunting, fishing or trapping	\$ 35
261.8(d)	Dogs not on leash or confined	\$ 20

<u>PROPERTY</u>		
36 CFR 261.9(a)	Mutilating, destroying, defacing or removing any natural fixture or property	\$100
261.9(b)	Removing, destroying or damaging threatened, endangered, rare, or unique plant species	\$100
261.9(c)	Entering buildings or structures not open to the public	\$ 50
261.9(d)	Use of herbicides, pesticides or fungicides except as authorized	\$ 50
261.9(e)	Disturbing, injuring, destroying or removing objects from archeological, paleontological, or historical sites	*

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
<u>OCCUPANCY AND USE</u>		
36 CFR 261.10(a)	Constructing, placing or maintaining structures or facilities without permit	*
261.10(b)	Residential use without permit	\$ 50
261.10(c)	Selling or offering for sale without permit	\$ 25
261.10(d)	Discharging weapons capable of injury or damage:	
	(1) Within 150 yards of residence campsite, or occupied area	*
	(2) On or across roads or adjacent waters where persons or property are subject to injury	*
261.10(e)	Abandonment of vehicles, animals, or personal property	*
261.10(f)	Placing a vehicle or other object in such a manner that it is an impediment or hazard to the safety or convenience of any person	\$ 25
261.10(g)	Placing or constructing unauthorized signs	\$ 50



<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
<u>OCCUPANCY AND USE</u>		
36 CFR 261.10(h)	Unreasonable disturbance of persons through use of producing devices, such as radios, television, instruments, or motors near campsites, recreation sites, or over adjacent water bodies	\$ 25
261.10(i)	Public address systems in or near campsites, recreation sites or adjacent waters	\$ 25
261.10(j)	Public meetings or special events without permit	\$ 50
<u>SANITATION</u>		
36 CFR 261.11(a)	Depositing in toilet, toilet vault, or plumbing fixture any bottle, can, cloth, or other substance which could damage or interfere with operation or maintenance	\$ 50
261.11(b)	Possessing or leaving refuse, litter, or debris in exposed or unsanitary condition	\$ 50
261.11(c)	Placing in or near open waters any substance which may pollute such waters	\$ 100

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
<u>SANITATION</u>		
36 CFR 261.11(d)	Failure to dispose of all garbage or rubbish either by removing from site or depositing into receptacles provided for such use.	\$ 25
261.11(e)	Depositing garbage or trash from private property or land under special permit in facilities or Government area	\$100
<u>FOREST ROADS AND TRAILS</u>		
36 CFR 261.12(a)	Load, weight, height, length or width restrictions	\$100
261.12(b)	Failure to have vehicle weighed if required	\$ 50
261.12(c)	Failure to stop when directed	\$ 50
261.12(d)	Damaging and leaving in damaged condition any road or trail	\$ 50
261.12(e)	Restricting or interfering with use of a road, trail, or gate.	\$ 50
261.12(f)	Vehicles in excess of a 40-inch width on trails	\$ 50

C. INCIDENT REPORT (FSM 5341.4)

Incident Report, 5300-1, page 2. All law enforcement actions not initiated with a Warning Notice or a Violation Notice shall be initiated with an Incident Report. The Incident Report is a field document for recording a violation when the violator is unknown and as an initial record of investigation information when a potential violation is observed and the suspect is known. The Incident Report is not to be used to cite violations before Judicial authorities. The preprinted case number will be used to identify the case when requesting an investigation by a Special Agent, or other followup action. Cases which are initiated by use of an Incident Report, will retain the preprinted case number throughout the life of the case except as provided in FSM 5341.21. Two copies of the Incident Report are provided.

One copy is to serve as an action record file for the Forest and the other as an ADP input document to be entered by the Forest. When using only the Incident Report, the Warning Notice will be removed and destroyed.

Instructions for Completing Incident Report, 5300-1, page 2. The following itemized headings and field numbers are the same as the block identification headings on the form. Leave blank all unused coding spaces on the left side of the coding block. Exhibit III shows a sample form.

1. Violation Description. Describe violation in common terms.

2. Violation Code. (8/13) Code by entering number of CFR. Do not include the abbreviation CFR. If other than the Federal law is violated, code to identify the functional area. Such as: 2400 for timber, 5100 for fire, and 6400 for property. The last two (ten's) digits of the functional code are available for optional Regional expansion such as coding State law violation (80 and 90 series are reserved for WO expansion).

VI-14

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
	<u>DEVELOPED RECREATION SITES</u>	
36 CFR 261.14(c)	Cleaning or washing food, fish, animal, or property at a hydrant or water faucet not provided for that purpose	\$ 25
261.14(d)	Discharging or igniting fireworks or explosives	\$ 50
261.14(e)	Occupying between 10 p.m. and 6 a.m. a place designated for day use	\$ 25
261.14(f)	Failure to remove camping equipment or personal property when vacating the area	\$ 15
261.14(g)	Equipment except in place specifically designated or provided	\$ 15
261.14(h)	No attendance during first night equipment has been set up, without permission	\$ 15
261.14(i)	Camping equipment unattended more than 24 hours, without permission	\$ 15
261.14(j)	Dogs or other animals not on leash under 6 feet long or otherwise contained	\$ 25

V-15

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
<u>DEVELOPED RECREATION SITES</u>		
36 CFR 261.14(k)	Animals other than Seeing Eye Dogs in swimming area	\$ 25
261.14(l)	Pack, saddle, or draft animals except as authorized by sign	\$ 25
261.14(m)	Motor vehicle or trailer except in places developed for this purpose	\$ 15
261.14(n)	Bicycle, motorbike, or motorcycle on trails not designated for that use	\$ 50
261.14(o)	Motorbike, motorcycle, or other motor vehicle except for entering or leaving	\$ 15
261.14(p)	Distribution of handbill, circular, paper, or notice without permit	\$ 15
261.14(q)	Depositing body waste except in receptacles provided for that purpose	\$ 50
<u>ADMISSION, RECREATION, AND SPECIAL RECREATION PERMIT FEES</u>		
36 CFR 261.15	Failing to pay established fee for facilities, equipment, or services provided by Government	\$ 15

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
<u>ADMISSION, RECREATION, AND SPECIAL RECREATION PERMIT FEES</u>		
(The statutory maximum for violation of this section is a fine of not more than \$100 Sec 2, 78 STAT. 897, Amended; 16 USC 4601-6(e).)		
<u>NATIONAL FOREST WILDERNESS</u>		
36 CFR 261.16(a)	Possessing or using motorized equipment, except for small hand-operated, battery-powered devices	\$100
261.16(b)	Possessing hang glider or bicycle	\$ 15
261.16(c)	Use of aircraft, except as authorized by permit, or Federal law or regulation	\$300
<u>UNAUTHORIZED USE OF SYMBOLS</u>		
36 CFR 261.20(a) (b)	Manufacture, importation, reproduction, or use of "Smokey Bear" and/or "Woodsy Owl," except as authorized	\$ 10
<u>Subpart B - Prohibitions in Areas Designated by Order</u>		
<u>FIRE</u>		
36 CFR 261.52(a)	Building, maintaining, attending, or using a fire, campfire, or a stove fire	\$ 25

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
	<u>FIRE</u>	
36 CFR 261.52(b)	Using an explosive	\$ 50
261.52(c)	Smoking	\$ 25
261.52(d)	Smoking except in a building or vehicle or while seated in an area at least 3 feet in diameter and cleared of all flammables	\$ 15
261.52(e)	Going into or being upon an area	\$ 25
261.52(f)	Possessing or using fireworks or pyrotechnic device	\$ 25
261.52(g)	Entering an area without firefighting tools prescribed by the order	\$ 15
261.52(h)	Operating an internal combustion engine, except on a road	\$ 50
261.52(i)	Welding or using torch with open flame	\$ 50
261.52(j)	Operating or using an internal combustion engine without specified spark arrester	\$ 50
261.52(k)	Violating specific State laws	\$ 25

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
	<u>SPECIAL CLOSURES</u> where prohibited by order, going into or upon an area closed for the protection of--	
36 CFR 261.53(a)	Threatened, endangered, rare, unique, or vanishing species of plants, animals, birds, or fish	*
261.53(b)	Special biological communities	*
261.53(c)	Objects or areas of historical, archeological, or paleontological significance	*
261.53(d)	Scientific experiments or investigations	*
261.53(e)	Public health or safety	\$ 25
261.53(f)	Property	\$ 25
	<u>FOREST DEVELOPMENT ROADS</u>	
36 CFR 261.54(a)	Using prohibited vehicle	\$ 50
261.54(b)	Use by prohibited traffic	\$ 25
261.54(c)	Commercial hauling without permit	\$100
261.54(d)	Vehicle in violation of speed, height, weight, load, length, width, or other special limitations	\$ 50

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
	<u>FOREST DEVELOPMENT ROADS</u>	
36 CFR 261.54(e)	Being on road	\$ 10
	<u>FOREST DEVELOPMENT TRAILS</u>	
36 CFR 261.55(a)	Being on a trail	\$ 25
261.55(b)	Using a bicycle or motorized vehicle	\$ 25
261.55(c)	Possessing or using saddle, pack, or draft animal	\$ 50
261.55(d)	Shortcutting a switchback	\$ 25
	<u>USE OF VEHICLES OFF FOREST DEVELOPMENT ROADS</u>	
36 CFR 261.56	When provided by order, use or possession of vehicle off roads	\$ 50
	<u>NATIONAL FOREST WILDERNESS</u>	
36 CFR 261.57(a)	Entering or being in the area	\$ 25
261.57(b)	Possessing prohibited equipment	\$ 50
261.57(c)	Possessing a firearm or firework	\$ 50

V-20

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
	<u>NATIONAL FOREST WILDERNESS</u>	
36 CFR 261.57(d)	Possessing nonburnable food or beverage containers, except for those designed for repeated use	\$ 25
261.57(e)	Grazing animals	\$ 50
261.57(f)	Storing equipment or personal property	\$ 25
	<u>OCCUPANCY AND USE</u>	
36 CFR 261.58(a)	Camping over designated time limit	\$ 25
261.58(b)	Entering or using a developed recreation site or portions thereof	\$ 25
261.58(c)	Entering or remaining in campgrounds during night periods, except for occupants	\$ 25
261.58(d)	Occupying site with prohibited equipment	\$ 25
261.58(e)	Camping	\$ 25
261.58(f)	Exceeding specified number of users	\$ 25
261.58(g)	Parking in violation of posted sign	\$ 10
261.58(h)	Parking outside assigned space	\$ 10

V-21

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
	<u>OCCUPANCY AND USE</u>	
36 CFR 261.58(i)	Possessing, parking, or leaving more than two vehicles per camp unit	\$ 10
261.58(j)	Being publicly nude	\$ 25
261.58(k)	Being in a body of water	\$ 25
261.58(l)	Being in an area before sunrise or after sundown	\$ 25
261.58(m)	Discharging a firearm, air rifle, or gas gun	\$ 25
261.58(n)	Possessing or operating a motorboat	\$ 50
261.58(o)	Waterskiing	\$ 25
261.58(p)	Storing or leaving a boat or raft	\$ 15
261.58(q)	Operating watercraft in excess of posted speed limit	\$ 25
261.58(r)	Launching watercraft except at designated ramp	\$ 25
261.58(s)	Possession or transportation of a bird or animal	\$ 20
261.58(t)	Possessing or transporting any part of a tree or plant	\$ 15

V-22

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
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OCCUPANCY AND USE

36 CFR 261.58(u)	Being in an area between 10 p.m. and 6 a.m., except for persons camping or visiting campers	\$ 25
261.58(v)	Hunting or fishing	\$ 50

Subpart C - Prohibitions in Regions

36 CFR 261.79	Regulations applicable to the Alaskan Region (Reserved)	
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DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_

\_\_\_\_\_  
Chief Judge, U.S. District Court

\_\_\_\_\_  
Judge, U.S. District Court

V-23

Chapter VI

Statistical Law Enforcement Reports:

Instructions for Issuing and Processing--

- \*Violation Notices
- \*Warning Notices
- \*Incident Reports
- \*Case Reports

STATISTICAL LAW ENFORCEMENT REPORTS  
(FSM 5340)

Policy. All known violations of laws and regulations on National Forest System lands shall be reported whether or not the violator is known. Reporting violations shall be accomplished by using either a Violation Notice, 5300-4; a Warning Notice, 5300-1, page 1; or an Incident Report, 5300-1, page 2.

Report Forms. Law Enforcement Reports are based on five documents adapted to an ADP system.

- A. Violation Notice, FS 5300-4.
- B. Warning Notice, R10 5300-1.
- C. Incident Report, R10 5300-1.
- D. Case Report (Narrative).

INSTRUCTIONS FOR ISSUING AND PROCESSING  
VIOLATION NOTICES FOR PETTY OFFENSES

U.S. DISTRICT COURT FOR ALASKA

THE AUTHORITY

The United States District Court for the District of Alaska has provided forfeiture of collateral in lieu of appearance for processing petty offense violations. This permits persons charged with petty offenses to post collateral in a preset amount, waive appearances before the Court and consent to the forfeiture of the collateral. This is accomplished by paying the prescribed amount of collateral (normally by a personal check) in a pre-addressed, postage-paid envelope furnished as a part of the Violation Notice (ticket).

UNITED STATES MAGISTRATES

The court has appointed the following United States Magistrates for the District of Alaska.

<u>FULL-TIME MAGISTRATE</u>	<u>AREA</u>
Judge John Roberts United States District Court 605 West 4th Avenue Anchorage, Alaska 99501 Telephone: 265-5320 or 276-1714	South-Central Alaska Anchorage, Kodiak, Seward, Cordova

MANDATORY  
Tuesdays 2 p.m.  
(At least 2 weeks from date of Notice)

<u>PART-TIME MAGISTRATE</u>	<u>AREA</u>
(Also are Alaska State District Judges) Judge Gerard O. Williams State Court Building Pouch U Juneau, Alaska 99811 Telephone: 465-3443	Petersburg, Sitka, Juneau, Yakutat

MANDATORY  
Fridays 2 p.m.  
(At least 2 weeks from date of Notice)

<u>PART-TIME MAGISTRATE</u>	<u>AREA</u>
Judge Henry C. Keene 415 Main Street Room 300 Ketchikan, Alaska 99901 Telephone: 225-3141	Wrangell, Ketchikan

MANDATORY  
Tuesdays 2 p.m.  
(At least 2 weeks from date of Notice)

VI-2

\*CLERKS, UNITED STATES DISTRICT COURT.  
Clerk, United States District Court  
605 West 4th Ave.,  
Anchorage, Alaska 99501  
Telephone: 276-2650

UNITED STATES ATTORNEY  
Alexander O. Bryner  
U.S. Attorney, District of Alaska  
U.S. Dept. of Justice  
U.S. Courthouse Building  
Anchorage, Alaska 99501  
Telephone 277-1491

\*Also serves as Central Violations Bureau.

VI-3



A. VIOLATION NOTICE (FSM 5335)

POLICY--ISSUANCE OF VIOLATION NOTICES

Violation Notices, 5300-4, will be issued in accordance with the petty offense rules issued by the local United States District Court. Only Forest Officers with Level II or above training are authorized to issue Violation Notices. State and local law enforcement officers do not have authority to issue Violation Notices, and they will not be supplied with copies of the Violation Notice, 5300-4.

Forest Officers will initiate criminal action in each case involving a violation of law, regulation, or order; however, Forest Officers may use discretion in determining if a Violation Notice, 5300-4, should be issued for petty offenses contained in 36 CFR 261. Proper use of such discretion is conducive to good management. It should not, however, be the alternative to impartial consistent law enforcement. Discretion may not be used when--

1. Violations are of specific sections of Title 18 U.S.C.
2. Violation of 36 CFR 261 prohibitions result in loss or damage to property or resources.
3. Acts are clearly malicious, willful, or deliberate.
4. The safety or rights of other users are in jeopardy.

Before issuing a Violation Notice, the Officer must establish that a crime has been committed by the violator and that issuance of a Violation Notice is appropriate.

The Officer will issue Violation Notices normally only when the violation has been personally observed by the Officer. However, occasionally when the need arises, an Officer may issue a Violation Notice based on the personal observation of a second Officer.

VI-4

The Officer will not normally mail a Violation Notice to a violator. The Violation Notice is usually personally handed to a violator.

The law or regulation pertinent to the violation will clearly be explained to the violator by the issuing Officer. The Officer will then inform the violator that he/she is being issued a Violation Notice which will bring the matter to the attention of the Federal Court.

PROCESSING

The Violation Notice, 5300-4, serves three purposes. First, as a citation under local Rules of the U.S. District Court, second, as a law enforcement report, and third, as an ADP input document. The tickets are printed on a carbonized paper and prenumbered for accounting and record purposes.

1. The preaddressed envelope copy is given to the violator.
2. The two white copies will be submitted to the Clerk, U.S. District Court, for mailable offenses or to the Magistrate for mandatory court appearance offenses, within 24 hours of the violation. Copies must be attached to transmittal form R-10 5300-1. Two copies of the form R-10 5300-1 should be sent. Also, include an envelope preaddressed to the Forest.
3. The green copy will be retained for the Forest record and the yellow copy to the Forest ADP programer.

Instructions for Completing Violation Notice, Form 5300-4.

The issuing Forest Officer will legibly, with ballpoint pen, complete the Violation Notice. The following itemized headings are the same as the block

VI-5

identification headings on form 5300-4 shown in Exhibit 1. Enter code numbers from right to left. Violation Notice forms 5300-4 are accountable property (FSM 5355.1).

1. Organization Code. Enter code for place violations occurred. Use standard Forest Service codes for Region and Forest. (Region 10, Chugach National Forest 01, Tongass National Forest 02).

2. Location Code. Enter additional code for place violation occurred. Use standard Forest Service codes for Forest/Area (Stikine 02, Chatham 03, Chugach 04, Ketchikan 05).

3. Address of Magistrate's Court. Enter Magistrate's name and address where mandatory appearance will be held (Item 9).

4. Officer's Signature. Issuing Forest Officer's signature.

5. Officer's Number. Enter issuing Forest Officer's number from credentials or identification card AD-53.

6. Date of Notice. Enter month, day, year, that Violation Notice is issued.

7. 24-hour Time. Enter the time the Violation Notice is issued, using the 24-hour clock.

8. Day of Week. Enter day of the week of the violation, by coding Sunday as 1, Monday as 2, . . . Saturday as 7.

9. Mandatory-Appearance Box. If mandatory appearance required, check box A and enter date and hour of court appearance (Item 3). Leave blank if mandatory appearance is not required.

10. Nontraffic. Cite the regulation violated, for example, 36 CFR 291.7, and briefly describe the specific violation.

11. Arrest 1, Trn/Cit 2. Leave blank.

12. Adult 1, Juvenile 2. Self-explanatory. Seventeen (17) years and younger is juvenile. (A person who has not yet reached his/her 18th birthday.)

13. Race. Enter race of the violator using the following code:

1. Caucasian
2. Negro
3. Indian
4. Oriental
5. Spanish-American
6. Other (Alaska Native)

14. Color of Vehicle. Enter color of vehicle. If two colors, list as white/brown.

15. Driver's Permit. Enter State that issued permit, and serial number of the permit.

16. Birth. Enter month, day, and year of violator's birthday.

17. Sex. Check M for male, F for female.

18. Height. Enter violator's height in feet and inches.

19. Weight. Enter violator's weight in pounds.

20. Offense Code. Enter CFR section and subsection, for example, 261.7A or 261.7a.

21. Make of Vehicle. Enter brand name of vehicle involved, for example, Ford.

22. Body Type. Enter type of vehicle body, for example, 4-door sedan.

23. Address. Enter street number and name, city, state, and zip code where violator lives.

24. Disposition. Leave blank, for Court Clerk use.

25. State. Enter State that issued the vehicle license.

26. Tag No. Enter vehicle license number.

27. Last Name. Enter last name of violator

28. First Name. Enter first name of violator and middle initial.

29. Viol. Enter type of violation: 1 for parking violations, 2 for moving violations, and 3 for nontraffic violations.

30. Loc. Enter ANC for Magistrate in Anchorage; JUN for Magistrate in Juneau; KET for Magistrate in Ketchikan.

31. Fine. Enter collateral established for violation cited. If mandatory appearance, leave blank.

32. Location. Enter Recreation Information Management (RIM) codes for other than General Dispersed Areas. In General Dispersed Areas, use township, range and section, or latitude and longitude. RIM codes applicable to each Forest will be entered by the Forest in the space below.

VI-8

#### MAILABLE FINE OFFENSES

The Officer must remember to--

1. Fill in the amount of collateral set by the Court for offense committed.

2. Not enter Magistrate's name or location.

3. Furnish envelope copy of the Violation Notice to violator, after entering the title and address of the Clerk, U.S. District Court on the front of the envelope copy.

4. Advise violator that--

a. He/she must mail the amount of collateral and the Violation Notice within seven days, or

b. If the violator requests a hearing before a U.S. Magistrate, the violator should check Box B on the Violation Notice and mail only the Violation Notice. He/she will be notified of time and place to appear before a U.S. Magistrate. The issuing Officer will not check Box B in this instance, only the violator will.

#### MANDATORY COURT APPEARANCE OFFENSES

The Forest Officer must remember to--

1. Check "Box A" for mandatory appearance.

2. Fill in name and location of the U.S. Magistrate before whom violator must appear, at the top center of the Violation Notice. In this instance, do not enter name and location of Magistrate on the front of the envelope copy, since the envelope will not be mailed.

VI-9

3. Fill in the date and time of appearance. The Officer determines the date and time for hearings from the present hearing schedules established by the Magistrates. A date allowing at least two full weeks from the date of the violation should be used. Check dates to avoid holidays.

4. Fill in the "LOC" code.
5. Not indicate an amount of fine.
6. Furnish the envelope copy to the violator.
7. Advise the violator that--

a. He/she must appear before the U.S. Magistrate at place, date time indicated, or promptly contact the Magistrate for a reschedule.

b. Failure to appear may result in a warrant being issued for for violator's arrest.

Officers who issue Violation Notices requiring a mandatory appearance will attend scheduled hearings and trials.

#### VOLUNTARY APPEARANCE (REQUESTED BY DEFENDANT)

If the violation does not require a mandatory appearance and the violator requests a hearing by checking Box B of the form 5300-4, he/she will not be required to submit bail with the Violation Notice. The Court Clerk will forward the notice to the Magistrate who in turn establishes a hearing date. The Chief Criminal Assistant to the United States Attorney and/or the Forest Law Enforcement Coordinator is then notified of that date. Also, the Magistrate issues a summons to the defendant to appear for arraignment. An assistant U.S. Attorney may or may not be present; however, a Forest Officer must be present at the arraignment.

VI-10

#### NO SHOWS (FAILURE OF DEFENDANT TO APPEAR)

When Violation Notices have been issued and the violator has failed to pay the fine or appear as appropriate, the Magistrate will issue a summons to the violator to show cause for the failure. If the defendant does not appear, or show cause for not appearing, he/she is held in contempt of court and is subject to arrest. The arrest warrant may be designated for delivery by the U.S. Marshall or a Special Agent.

#### COURT PROCEDURE

For all mandatory violations, the defendant and a Forest Officer must appear. An assistant U.S. Attorney may or may not appear. The Forest Officer appearing may or may not be the Officer issuing the Violation Notice; therefore, a brief but detailed law enforcement report must be available to that Officer and/or the U.S. Attorney's Office (FSM 5344, Case Report).

Upon appearance before the Magistrate, the defendant may enter a plea of guilty, not guilty, Nolo Contendere. If the defendant pleads guilty or Nolo Contendere, the Magistrate establishes a penalty. If a plea of not guilty is entered, the defendant may elect for a trial, without jury, by the Magistrate or a jury trial by the U.S. District Court.

A U.S. Attorney will always be present at a jury trial before a District Judge. This may not be the case at a Magistrate trial. If an attorney is not present, a Forest Officer will be expected to act as a prosecutor.

#### B. WARNING NOTICE (FSM 5341.3)

Warning Notices, 5300-1, page 1. The Warning Notice, is the first part of a three part field book form. The Warning Notice is designed to be given to the person who is responsible for the act which

VI-11

necessitates its issuance. Page two of the field book is an Action Record document for issuing unit files, and page three is designed to become an ADP input document for the Warning Notice. The name and address of the person receiving the Warning Notice may be obtained verbally and not verified from personal identification documents.

A Warning Notice rather than a Violation Notice may be issued only if the Forest Officer determines that the violation occurred because of inadvertance, lack of understanding, or misinformation. Warnings will be applied in a firm, tactful, friendly, and dignified manner. The regulation or order that has been violated should be clearly identified for the visitor. The visitor should be given an explanation of the purpose it serves so that the person understands the necessity for enforcement action. The visitor should leave with a better understanding and an appreciation of the need for compliance.

Only Forest Officers who have completed Level II or above training may issue Warning Notices.

Instructions for Completing Warning Notice,  
5300-1, page 1.

The following itemized headings are the same as the block identifications on the Warning Notice. Exhibit II shows a sample form.

1. Violation Description. Describe violation in common terms.
2. Date. Enter date incident occurred. Enter day of week (DOW) by coding Sunday as 1, Monday as 2, . . . Saturday as 7. Enter time by using 24-hour clock.
3. Location. Describe landmark or accepted name.
4. Name. First, Middle Initial, Last.

5. Address, City, State, Zip Code. Address of violator, use standard Post Office State abbreviation, include zip code in U.S.A., code 99 is foreign country. Do not use P.O. Box number unless accompanied by street or R.F.D. number.

6. Vehicle Identification. If vehicle is available, identify as indicated.

7. Forest Officer. Signature of issuing Officer.

8. Officer No. Enter number from credentials or identification card AD-53.

9. Date. Date issued.

After a Warning Notice is issued, the Incident Report, page 2 shall be coded in the following blocks. These blocks are shaded to facilitate identification. Exhibit III shows a sample form.

- (a) Violation Code (8-13).
- (b) Location (14-24).
- (c) Location Code (36-44).
- (d) Warning Notice Issued (45).

<u>SECTION</u>	<u>VIOLATION</u>	<u>AMOUNT</u>
	<u>USE OF VEHICLES OFF ROAD</u>	
36 CFR 261.13(a)	No valid license as required by state laws	*
261.13(b)	Without operable brakes	\$ 25
261.13(c)	Without operable head and tail lights one-half hour after sunset and one-half hour before sunrise	\$ 25
261.13(d)	Noise emission above National or State standards	\$ 25
261.13(e)	Under influence of alcohol or drugs	*
261.13(f)	Excessive or unusual smoke	\$ 25
261.13(g)	Carelessly, recklessly, or without regard to safety of any person or property	*
	<u>DEVELOPED RECREATION SITES</u>	
36 CFR 261.14(a)	Occupying site for other than recreation purposes	\$ 20
261.14(b)	Fire outside of stove, grill, fireplace, or fire ring provided by the Government	\$ 25

3. Location. (14-24) Enter code where incident occurred. Use standard Forest Service codes. Leave District and County blank, Region 10, Chugach National Forest - 01, Tongass National Forest - 02, State - 02.

4. Date. (25-35) Enter date incident occurred. Use (DOW) by coding Sunday as 1, Monday as 2 . . . Saturday as 7. Enter time by using 24-hour clock. (If date is unknown, estimate month and year and code day as 99 and DOW as 9 and omit time.)

5. Location. Describe location by landmark or accepted name.

6. Location Code. (36-44) Enter Recreation Information Management (RIM) codes for other than General Dispersed Areas. In General Dispersed Areas, use township, range, and section; or latitude and longitude.

7. Warning Notice Issued. (45) Enter whether or not a Warning Notice was issued. Y=yes, N=no.

8. Name. Name of violator or suspect. First, Middle Initial, Last.

9, 10, 11, 12. Address, City, State, Zip Code. (46-52) Address of violator or suspect, use standard Post Office State abbreviations, include zip code in U.S.A., code 99 if foreign country. Do not use P.O. Box number unless accompanied by street or R.F.D. number.

13. Vehicle Identification. If vehicle is involved, identify as indicated.

14. Description and Identification of Suspect. (53-55) Enter from best identification available. Race. (53) Enter appropriate code letter: W-White,

B-Black, I-Indian, A-Asian, H-Hispanic, O-Other (Alaska Native). Sex. (54) Enter appropriate code letter: M-male, F-female. (55) Enter A-Adult, J-Juvenile. Drivers License No. and State. Enter from license. Identify other type of personal identification under remarks.

15. Resource Damage. (56-61) Enter to the nearest \$100 the estimated value of resource damage.

16. Property Damage. (62-66) Enter to the nearest \$100 the estimated value of lost, damaged, or stolen property. Pursuant to U.S.C. 641 and 1361, value means "either wholesale or retail whichever is greater."

17. Property Recovered. (67-71) Estimated value of property recovered to nearest \$100, defined as in item 16 above.

18. Violation Severity. (71) Enter appropriate code letter: P-petty offense, M-misdemeanor, or F-felony.

19. Non-Federal Offense. (73) If violation is other than Federal offense, enter X here and complete coding required in item 2 above.

20. Status of Case. (74) Enter I-incomplete, S-solved and completed, and U-unsolved and completed, and N-no criminal action initiated and case not held for investigation.

21. Remarks. Enter remarks concerning the incident.

22. Forest Officer's Signature. Enter signature of Officer filing report.

23. Officer No. (75-80) Enter number from credentials or identification card AD-53.

24. Date. Enter date issued.

VI-16

#### D. CASE REPORT (FSM 5344)

Case Reports (Narrative). Regardless of the criteria listed below, the Forest Supervisor, local assistant U.S. Attorney or U.S. Magistrate may have the option of requiring a case report.

A criminal case report will be prepared when--

1. The violation constitutes a felony and the identity of the violator is known.

2. A violator charged with a petty offense is to be tried either by a U.S. Magistrate or in U.S. District Court.

3. In major investigations where the suspect is not identified.

The case report is normally an office report, but some information will need to be gathered during the field investigation.

Report Preparation. Case reports shall contain complete information which will enable reviewing officials and attorneys to assess the prosecutive merits of the case and present the case in court.

#### Case Report Content. (FSM 5344.14)

Information to be gathered in the field includes:

1. Identity of Suspect and Other Principals Involved. State the name, address, and all identifying information available about the violator such as: date and place of birth; physical description; driver's license, social security number, and FBI number; criminal convictions; occupation, etc. If the violator is a company or corporation, include name, etc., of the principal offices. If an address is only a post office box or mail route number, give the description of how to locate violator's residence.

VI-17

If civil actions are anticipated, include financial standings, general reputation, relationship of principals with one another.

2. Violations Charged. Cite (but do not quote) the Federal and State laws or regulations applicable to the case. Civil supplement may include contracts or agreements violated.

3. Details of Case. Describe in chronological order and in detail all relevant facts of the case. Include when, where, what, who, why, and how.

The means of proving facts must be included in this section, such as crime lab analysis, what witnesses saw or heard, what evidence was collected, and who has custody of it.

4. Government Witnesses. Give the full legal name (nickname and/or aliases should be included), occupation, title, identifying information (for example, DOB, POB, SSN, driver's license) and telephone numbers and address of all Government witnesses.

5. Defense Witnesses. Include the best information available, following the same guidelines in Item 5.

6. Exhibits. All copies of the Case Report will contain legible copies of all exhibits. Exhibits should be numbered.

a. Area Map. This should be at least 8 by 10½ inches in size and a scale as large as needed to show pertinent detail of the violation area. Land ownership should be indicated in various shades or colors. In fire cases, the point of origin should be indicated. In some cases, an additional general area map or detailed map may be needed.

b. Contracts, Permits, Published Notices, and so forth. Complete copies of any such items relating to the case will be included.

c. Statements of Witnesses. Copies of signed or written statements or transcripts of recorded interviews will be included as exhibits.

d. Investigator's Report. A copy of any investigator's report will be included.

e. Pictures, Photos, Sketches. Copies of photos, pictures, or sketches relative to the case will be included along with a statement as to who took or prepared them.

f. Copy Machine Prints of Photographs are not Acceptable. A few photographs illustrating the key points will be included and reference made to the existence of others, along with what they depict and who took them.

g. FS 5100-29, Individual Fire Report will be included in fire cases.

h. Other Material Evidence. Exhibits or evidence applicable to the case, such as copies of lab reports, etc. will be included.

i. Financial Statements. If applicable, include copies of any supporting documents relating to the suspect's ability to pay for costs and damages.

j. Signing. The report will be dated and signed by the person who prepared it and approved by the Forest Supervisor or his/her designate.

Upon completion of field investigation, immediately refer to FSM 5344 for more detailed instructions on preparing the case report. Do not destroy any field data.



Filing and Release of Investigative or Law Enforcement Records. All such records will be administered in compliance with the Freedom of Information Act, FSM 6271, and Privacy Act of 1974, FSM 6272.

VI-20

Chapter VII  
Glossary of Terms

This glossary of terms should assist the Forest Officer in his/her understanding of terms commonly used by professional law enforcement officers, attorneys, and judges:

ACCUSATION: A formal charge against a person to the effect that he/she is guilty of a punishable offense laid before a court or magistrate having jurisdiction to inquire into the alleged crime.

ADMINISTRATIVE ACTION: Any action taken in connection with a violation of law which is concluded prior to prosecution in court.

ADULT: One who is of full age, usually, by statute, twenty-one for males, eighteen for females; by Federal law, 18 years of age.

AFFIDAVIT: A written or printed declaration or statement of facts, made voluntarily and confirmed by oath or affirmation of the party making it, taken before an officer having the authority to administer oath.

ALLEGATION: The assertion, declaration, or statement of a party to an action, made in a pleading, setting out what he/she expects to prove.

AREAS OF CONCENTRATED PUBLIC USE: Those areas identified by a posted map delineating its boundaries.

ARRAIGNMENT: In criminal court, to bring a defendant before the court to answer the charges against him/her.

ARREST: To stop or detain a person and restrain his/her liberty until he/she complies with some legal order. To stop or stay a legal proceeding particularly a judgment of a court, by some rule or order of the same court.

ASSAULT: An intentional attempt, by violence, to do bodily injury to another.

AUTHORITY: The power or right to enforce regulations and laws.

BAIL: The security given for releasing a person from legal custody.

BAIL SCHEDULE: A list of bail amounts preset by the U.S. District Courts.

BREACH OF PEACE: The offense of breaking or disturbing the public peace by riotous, forcible, or unlawful proceeding.

CITATION: An official call or notice to appear in court.

CITIZENS ARREST: A citizen's arrest may be made when the following conditions exist:

1. When a felony has been committed in the presence of a private person or when a felony actually has been committed and he/she has reasonable grounds to believe that the suspect committed it.
2. When the misdemeanor is committed in his/her presence and it amounts to a breach of the peace, or when he/she reasonably believes that the offender is about to renew a breach of the peace committed in his/her presence.

CIVIL ACTION: Legal action taken to recover costs or damages incurred where there is proof of an illegal or negligent act.

COMPLAINT: An accusation or charge against a person as having committed an alleged injury or offense.

CONFRONTATION: Confronted by antagonistic person(s) face to face.

CORPUS DELECTI: Every crime consists of a group of elements stated in the statute or law defining the offense and every one of these elements must exist or the statute is not violated. This group of essential elements is known as the "Corpus delecti".

CRIME: An act committed or omitted in violation of a public law that either forbids or commands it.

CRIMINAL ACTION: The action by which a person charged with a public offense is accused and brought to trial and punished by the imposition of a fine or imprisonment or both.

DAMAGE: Means the monetary compensation recoverable by the United States for Government-owned property, taken, lost, or injured through the unlawful act or omission, or negligence of another.

DEFENDANT: The party put upon his/her defense, or summoned to answer a charge or complaint, either civil or criminal.

DEVELOPED RECREATION SITE: Improved observation, swimming, boating, camping, and picnic sites.

DIRECT EXAMINATION: The first interrogation or examination of a witness on the evidence, by the party on whose behalf he/she is called.

ENTRAPMENT: The act of officers or agents of the Government in inducing a person to commit a crime not contemplated by him/her, for the purpose of instituting a criminal prosecution against him. But the mere act of an officer in furnishing the accused an opportunity to commit the crime, where the criminal intent was already present in the accused's mind, is not ordinarily entrapment.

EVIDENCE: Any species of proof, or probative matter, legally presented at the trial of an issue, by the act of the parties, and through the medium of witnesses, records, documents, concrete objects, and so forth, for the purpose of inducting belief in the minds of the court of jury as to their contention.

EXPERT WITNESSES: May be persons of science educated in the art, or persons possessing special or peculiar knowledge from practical experience.

EXTRAJUDICIAL CONFESSION: A confession by the accused made out of court.

FALSE ARREST: Is an arrest not made in accordance with principles of law.

FELONY (FEDERAL): Generally, any offense punishable by imprisonment of at least one year or a fine of at least \$1,000, or both.

FINE: A sum required to be paid as punishment for an offense.

FOREST OFFICER: Any Forest Service employee, temporary or permanent.

IMPOUNDMENT: To take into the custody of the law or of a court.

INDICTMENT: An accusation in writing found and presented by a grand jury, charging that a person therein named has done some act, or been guilty of some omission which by law is a public offense, punishable on indictment.

INFORMATION: An accusation exhibited against a person for some criminal offense, without an indictment. An accusation is similar to an indictment; it differs only in being presented by a competent public officer on his/her oath, instead of a grand jury on their oath.

INTENT: Design, resolve, or determination with which a person acts. It presupposes knowledge. Intent shows the presence of will in the act which consummates a crime.

JURISDICTION: Is the authority, capacity, power, or right to act in a given area.

JUVENILE: A person under the age of 18 years.

LAW: A rule of conduct based on statutes or court cases and enforced by sanctions.

MAGISTRATE: Person clothed with power as a public civil officer, having certain judicial authority which may include the authority to issue a search warrant or a warrant of arrest to try and sentence persons charged with less offenses.

MALFEASANCE: Wrongful conduct by a public official.

MISDEMEANOR (FEDERAL): Any offense punishable by imprisonment for a term less than one year and/or a fine of not more than \$1,000.

MUNICIPALITY: A city, or town, etc. having its own incorporated government.

NATIONAL FOREST LAND: Federal-owned lands which are governed by Federal laws and regulations.

NEGLIGENCE: The omission to do something which a reasonable person, guided by those ordinary considerations which ordinarily regulate human affairs, would do, or the doing of something which a reasonable and prudent person would not do.

NOLO CONTENDRE: The name of a plea in a criminal action, having the same legal effect as a plea of guilty, so far as regards all proceedings on the indictment and on which the defendant believes a civil action may follow and this plea is not an admission of guilt, therefore, not admissible in the suit.

OFFENSIVE ACTION: The act of attacking or assaulting; aggression.

PEACE OFFICER: Any person designated by the State Forester as a voluntary fire warden and peace officer having the powers conferred by law upon peace officer for the primary duty of enforcing state Forest and fire laws and regulations, and county fire laws and regulations (definition limited to voluntary fire wardens and peace officers).

PERJURY: False swearing under oath.

PETITION (JUVENILE): An allegation in writing used in juvenile proceedings charging a person under age of 18 with the commission of a public offense or crime. A petition commences the action in court on matters concerning juveniles.

PETTY OFFENSE (FEDERAL): Any misdemeanor, the penalty for which does not exceed imprisonment for a period of six months or a fine of not more than \$500, or both.

PLEA OF GUILTY: A confession of guilt in open court.

PLEA OF NOLO CONTENDERE: One which has the same effect as a plea of guilty insofar as regards the proceedings on the indictment, and it is a confession only for the purposes of the criminal prosecution and does not bind the defendant in a civil suit for the same wrong.

PROBABLE CAUSE: Probable cause exists if the facts and circumstances known to the officer would warrant a prudent person in believing that the offense had been committed.

PROPRIETORIAL INTEREST STATUS: The status that the Federal Government has when it acquires some right or title to an area in a State, but has not obtained any measure of the State's authority over the area. Such status includes many powers and immunities with respect to such areas which are not possessed by ordinary land owners.

REGULATION: A law prescribed by the Secretary of Agriculture to prevent trespass on and otherwise regulate the protection of Federal Lands.

SEARCH WARRANT: An order in writing issued by a magistrate, or judge which authorizes the search of a specific home or premises in which there is reasonable cause to believe that stolen or otherwise illegally held property is located.

STATE AND PRIVATE LAND: Any land that is not Federally owned.

SUBPOENA: A process ordering a witness to appear and give testimony, commanding him/her to lay aside all pretenses and excuses and appear before the court or magistrate at a specified time and location to testify for the party named under a penalty therein mentioned.

SUMMONS: A writ, directed to the sheriff or other proper officer requiring him/her to notify the person named that an action has been commenced against him/her in the court that issued the writ and that he/she is required to appear, on a day named, and answer the complaint in such action.

THE DOMINANT CAUSE: Act or omission immediately causing or failing to prevent injury; act or omission occurring or concurring with another, which, had it not happened, injury would not have been inflicted.

TRESPASS: Doing of unlawful act or of lawful act in unlawful manner to injury of another's person or property. An unlawful act committed with violence, actual or implied, causing injury to the person, property, or relative rights of another.

TRESPASSER: For the purposes of this title, a trespasser includes a person (1) whose act or failure to act violates any law, rule, or regulation applicable to the National Forests, National Grasslands, or other land under Forest Service control; (2) whose

negligence or willful conduct results in loss or damage to the land or its resources, or in a claim for fire suppression costs; or (3) whose failure to comply with the provisions of a contract, permit, or other agreement which results in loss or damage to the land or its resources, or in a claim for fire suppression costs.

TRIAL: A judicial examination, in accordance with law of the land, or a cause, either civil or criminal, of the issues between the parties, whether of law or fact, before a court that has jurisdiction over it.

VIOLATION: Infringement or breach of a law or right.

VIOLATOR: A person who violates the law.

VOLUNTARY FIRE WARDEN AND PEACE OFFICER: Forest Officers designated by the State Forester to enforce State and county fire laws and regulations.

WARRANT OF ARREST: A process or writ issued by a judge, a magistrate or U.S. Commissioner and served by a law enforcement officer for the purpose of placing an offender under arrest.

WEAPON: An instrument of any kind used for fighting.

WILDFIRE: Any fire that is destructive of or burns uncontrolled in vegetation or other flammable material, including vehicles, buildings, improvements, and refuse.

WRIT: An order or mandatory process in writing issued from a court commanding a person to whom it is directed to perform or refrain from performing an act specified therein.

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**END**