

**DEPARTMENT OF THE INTERIOR****National Park Service****36 CFR Part 13**

RIN 1024-AD25

**Glacier Bay National Park, Vessel Management Plan Regulations****AGENCY:** National Park Service, Interior.**ACTION:** Final rule and technical amendment.

**SUMMARY:** This rule revises the special regulations for vessel quotas and operating requirements for cruise ships, tour vessels, charter vessels, private vessels, and passenger ferries within Glacier Bay National Park and Preserve. The rule implements the related final environmental impact statement completed in 2003 for vessel management in the park and preserve. This rule also makes nonsubstantive technical reorganizational changes for all of part 13. The part 13 reorganization, while not included in the proposed rule, is a result of comments received regarding the complexity of the Glacier Bay regulations specifically, as well as comments received previously for various rulemaking documents concerning the organization of part 13 generally.

**DATES:** This rule is effective on January 2, 2007.

**FOR FURTHER INFORMATION CONTACT:**

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*Part 13 reorganization information:* Vic Knox, Deputy Regional Director, National Park Service, 240 W. 5th Avenue, Anchorage, Alaska 99501. Telephone: (907) 644-3501.

**SUPPLEMENTARY INFORMATION:****Background**

This rule revises the special regulations for vessel quotas and operating requirements for cruise ships, tour vessels, charter vessels, private vessels, and passenger ferries within Glacier Bay National Park. The rule implements a final environmental impact statement (FEIS) completed in 2003 for vessel management in the Park. In 2001, the Ninth Circuit Court of Appeals determined that a 1996 increase in vessels into Glacier Bay violated the National Environmental Policy Act because an environmental impact statement (EIS) had not been

prepared when the vessel entry quota was increased. The court prohibited vessel traffic above the pre-1996 levels, unless an EIS was prepared. The court decision went into effect in late summer 2001 resulting in a reduction in vessel traffic. Following the court decision, Congress enacted legislation (Sec. 130, Pub. L. 107-63, 115 Stat. 442, Nov. 5, 2001) that returned the vessel quotas to the 2000 calendar year level until changed based on an EIS that was directed to be completed by January 1, 2004. The EIS was completed and announced in the **Federal Register** on October 10, 2003. The Record of Decision (ROD) for the EIS was signed on November 21, 2003. On March 3, 2006, a proposed rule was published in the **Federal Register** (71 FR 10940) to implement a portion of the ROD.

Under these revised rules, daily vessel quotas remain unchanged, however, the regulations provide an administrative procedure for increases in seasonal quotas up to the daily maximum of two cruise ships. Although the final regulation provides for an increase in seasonal quotas of cruise ships, increased resource protection is also provided by extending the seasonal-use day quota season for cruise ships to include May and September, requiring the superintendent to carefully evaluate available studies before allowing any increase in cruise ship numbers, and revising operating requirements. Subject to the established daily quotas, seasonal limitations are eliminated for all other vessel categories. Pursuant to statute, a new vessel category, passenger ferry, is added with a daily quota of one. The various proposals regarding definitions and vessel operational requirements have also been adopted unless noted otherwise in the "Changes to the Final Rule" section. As used within this document, the terms "we," "our," and "us" refer to the National Park Service.

**Summary of Comments**

The proposed rule was published for public comment on March 3, 2006 (71 FR 10940), with the initial comment period lasting until May 2, 2006. The National Park Service received 28 timely written responses, plus two petitions, regarding various sections of the proposed rule. One petition was signed by 113 individuals and the other was signed by 106 individuals. All of the written responses were either separate letters or e-mail messages. Of the 28 written responses, one was from the State of Alaska, two were from non-governmental organizations (including one consolidated response from 6 signatory groups), 5 were from small businesses, and 15 were submitted by

individuals. Many proposed changes either received supporting comments or no comments. These sections are being adopted as proposed, unless noted otherwise below. The proposed sections that did receive comments of opposition or revision are discussed below.

**General Comments***Proposed Quota/Permit System*

1. One commenter expressed support for the simplification of vessel management in Glacier Bay. The State of Alaska also commended the NPS on efforts to simplify the rules, but said the rule is still complex and recommended that the NPS further simplify the system.

*NPS Response:* One of the goals of the NPS in this rulemaking was to simplify the vessel regulations for Glacier Bay to the extent practical, while protecting park resources and access by all user groups. The NPS will continue to evaluate other ways to further simplify vessel management.

*NPS Administrative Use*

2. Several commenters suggested the NPS address and possibly limit administrative use. Other commenters recommended that NPS increase scientific research efforts.

*NPS Response:* The majority of NPS use of Glacier Bay is for research purposes so the park can make better management decisions. There are other NPS administrative uses of the Bay; including emergency response, law enforcement, personnel transfers to cruise ships, and access by other State and Federal agencies with shared jurisdiction of the Bay. The NPS is aware that administrative use of vessels has an impact and the park carefully considers the need for such use against the effect on park resources.

*Poor Communication Between the City of Gustavus and the NPS*

3. One commenter stated that there has been insufficient communication between the NPS and the City of Gustavus and that the City Council was not adequately informed about the changes in vessel management.

*NPS Response:* The NPS is committed to cooperating with all interested parties, including the City of Gustavus, regarding management of park resources. The NPS has consistently communicated with the Mayor of Gustavus and the City Council since the city's formation on April 1, 2004. Additionally, there have been numerous public meetings in the Gustavus area over the past several years regarding changes to vessel management in Glacier Bay.

### *Regulation of Private Vessels*

4. One individual commented that the NPS is over-regulating private vessels. This individual observed that all known collisions with whales have been caused by large commercial touring vessels.

*NPS Response:* The NPS does not believe that the park can support unlimited private vessel traffic. The environmental analysis indicates that all types of vessel traffic impact marine resources as well as the visitor experience in Glacier Bay. All vessels used for non-administrative purposes, including private vessels, are limited by number, route, and speed in particular parts of the Bay where whales are known to occur during the summer months. There have been two known whale fatalities that have occurred in the Bay due to vessel strikes. One was caused by a large commercial vessel and the other by a vessel of unknown size. In 2003, there also was a nonfatal collision between a small vessel and a whale in park waters.

### *Reduced Public Access*

5. One individual commented that the rules will reduce public access.

*NPS Response:* In fact, public access to the Bay is increased by eliminating the private seasonal vessel quota, which allows an increase from 1,972 vessel use days currently to a potential for 2,300 private vessel use days per season. A portion of the daily private vessel quota would be reserved and made available on a short notice basis (48 hours before the date for which the permit would be issued) to accommodate visitors and local area residents. The Superintendent would have the ability to adjust the ratio between short notice and advanced notice permits from year to year to accommodate private vessel use changes over time. Additionally, the seasonal vessel quota for cruise ships may increase, which, when combined with having ships with large passenger capacities, will allow substantially larger numbers of the public to visit Glacier Bay. All national park areas must balance the congressional mandate to preserve park resources in a manner that will leave them unimpaired for future generations. The NPS believes the vessel management regulations achieve this balance.

### *Organization of Regulations*

6. The State of Alaska and other individuals commented that the regulatory structure is hard to follow.

*NPS Response:* The NPS agrees that the organization of the regulations in Part 13, in particular Glacier Bay, needs improvement. As currently organized,

the regulations are difficult for the public and government to use. Accordingly, the NPS has decided to reorganize the entire Part 13. This reorganization will establish several new subparts and redesignate all sections. It also redesignates numerous paragraphs as sections. These changes will make the rule much easier to use by introducing new headings and eliminating many levels of subdivisions, particularly in the Glacier Bay regulations. With the exception of vessel management in Glacier Bay, the substance of the Part 13 regulations and their corresponding relationship to 36 CFR parts 1–7 and 12 remain completely unaffected by these changes. The changes to vessel management in Glacier Bay are clearly identified in the proposed rule and changes to the proposed rule are delineated in the following section of this document titled “Changes to the Final Rule.”

### **Specific Comments**

#### *Eliminating the Permit Exception*

7. We received 24 comments on the proposal to eliminate the permit exception for vessels based in Bartlett Cove. Many commenters requested that the NPS retain the permit exemption. Alternative suggestions included providing “grandfather rights” to people who have utilized this exception, suspend the implementation of the regulation until a new dock is built in Gustavus or until after the 2006 vessel permit season, enforce speed limits and require evasive action if whales are encountered, issue seasonal or right-of-way permits to those based in Bartlett Cove, allow only charter boats or commercial fishermen with lifetime access permits to use the exception, designate one private vessel permit as a “transit” permit that only one vessel could use at a time, or modify the regulatory definition of Glacier Bay or the boundaries of the Park to exclude Bartlett Cove. Other individuals commented that accessing Bartlett Cove was a right under the provisions of ANILCA section 1110(b), Access to Inholdings.

*NPS Response:* The NPS appreciates how eliminating this exception would affect some local residents. The City of Gustavus is planning on upgrading facilities outside the park for mooring or basing vessels in the near future. The NPS believes this will provide a reasonable alternative for local residents who are not interested in recreating in the Bay. For that reason, as a five-year interim solution the NPS has decided to adopt one commenter’s suggestion to designate one out of the 25 private

vessel permits each day as a “transit” permit. This “transit” permit could be used by several different vessels provided that only one vessel is using the permit at a time. The “transit” permit could be used to directly exit Bartlett Cove and allow the vessel to return directly to Bartlett Cove. It would not allow travel into any other part of Glacier Bay. The superintendent will develop application procedures and operating conditions as part of the compendium. This provision would cease to be effective five years from the effective date of these regulations.

The NPS does not believe ANILCA section 1110(b) applies in this circumstance. Gustavus is not within the boundaries of the park or effectively surrounded by the park, nor is access to or from Gustavus impeded by the park boundary.

#### *Vessel Definitions*

8. One commenter suggested that the NPS adopt vessel definitions that conform to U.S. Coast Guard definitions.

*NPS Response:* One of the changes in the charter vessel definition was established to conform to a new USCG category that includes vessels between 100 and 200 tons that are uninspected, which falls into the NPS charter vessel category. USCG definitions are based primarily on safety, which the NPS has found does not sufficiently account for visitor use patterns, concessions authorizations, and fee structures. For this reason, the NPS has adopted different vessel definitions.

#### *Adopt a Separate Vessel Category*

9. One commenter suggested that the Glacier Bay Lodge vessel and a possible future kayak drop-off vessel be removed from the charter or tour categories.

*NPS Response:* This would increase the number of vessels in Glacier Bay since these boats would not count toward the quotas for these two categories. The quotas, based on biological opinions, the FEIS, and ROD, have been determined to be the appropriate number of vessels to protect the environment while providing public access.

#### *Safe Harbor Rule*

10. A few commenters expressed support for the safe harbor exception to the permit requirement. One individual requested clarification on how the safe harbor would be implemented.

*NPS Response:* The safe harbor exception would allow vessels to operate in Glacier Bay without a permit if the superintendent determines on a case-by-case basis that there is a bona fide need for safe harbor. This would

apply to urgent weather, mechanical, or other safety-related emergencies; not situations where operating within Glacier Bay is a matter of convenience, such as provisioning or dropping off passengers to make a transportation connection on time.

#### Quotas

11. We received several comments regarding the vessel quotas. The State of Alaska requested the NPS allow two cruise ships each day from June 1 to August 31 so the maximum of 184 cruise ships can visit Glacier Bay during this time. Three commenters recommended the NPS maintain existing quota levels. One commenter suggested that charter or bare boat rentals should be excluded from private vessel status when there are no clients on board.

*NPS Response:* The purpose of the FEIS, biological opinions, and related studies was to determine the appropriate number of vessels that can visit Glacier Bay while protecting park resources and values. These quotas represent the NPS's primary mission to conserve park resources while providing for public enjoyment. The NPS believes the proposed quotas best achieve that mission.

Vessel quotas are directly tied to research and available scientific information. The connection was made by several commenters. One commenter suggested utilizing a scientific advisory board regarding cruise ship quotas. The proposed regulation ensures that the annual cruise ship quota will be based in part on available scientific information. This would involve input from the Glacier Bay Science Advisory Board, which was established to provide the superintendent with the best available information of the effect of cruise ships on park resources.

#### Closing Beardslee Entrance and Adams Inlets

12. Several commenters expressed support for the proposed closure of the Beardslee Entrance and Adams Inlet to cruise ships and tour vessels. Two commenters suggested also closing this area to charter vessels due to the potential size of vessels in this class. One individual suggested making a safe harbor exception to the closure.

*NPS Response:* The NPS believes the proposed rule protects resources and public safety. The NPS will continue to monitor the effectiveness of the rule. Visitor safety is an important concern to the NPS and individual situations will be assessed on a case-by-case basis.

#### Passenger Ferry

12. Two non-governmental organizations commented on the passenger ferry service. One organization expressed opposition to the ferry and the other organization suggested adopting size limits.

*NPS Response:* Passenger ferry service is authorized by federal law and the proposed regulations appropriately implement the statutory provisions.

#### Speed Limits

13. Two commenters objected to increasing speed limits in Glacier Bay whale waters. One of these commenters recommended adopting a 10-knot speed limit due to potential acoustic impact on whales. Another commenter stated boats will not be able to come up on step with the 13-knot speed limit.

*NPS Response:* The NPS adopts a speed limit when there is a safety or resource protection need. The current state of scientific information does not differentiate between 13 knots or lower speeds as a means of reducing acoustic impact on whales. Published scientific data indicate that fatal whale strikes are more likely to occur at vessel speeds of 14 knots or higher. Consequently, allowing higher speeds in whale waters would be inappropriate. For this reason, the NPS believes that a 13-knot speed limit is the appropriate limit to protect park resources. However, based on NOAA guidelines or new scientific information, the superintendent may change the speed limit.

#### Whale Waters

14. One commenter said that whales use Whidbey Passage regularly which would compel the superintendent to adopt vessel operating restrictions, effectively making this area "de facto" whale waters.

*NPS Response:* Whales commonly use Whidbey Passage, but variability in their distribution usually requires whale waters to be designated seasonally, rather than using a permanent boundary. The NPS has also found that permanent whale waters outside the Lower Bay unnecessarily restrict vessel operators when whales are not using those areas. Experience has shown that permanent whale waters in areas where whale presence is inconsistent can detract from the effectiveness of the whale protection regulations. The NPS therefore believes that whales will be best protected by designating customized whale waters on a case-by-case basis, rather than relying on permanent boundaries that may not be valid each year.

#### Changes to the Final Rule

Based on the preceding comments and responses, the NPS has made the following changes to the proposed rule language for vessel management at Glacier Bay National Park:

Part 13 reorganization—Based on public comments that the rule is confusing due to the structure of the regulations, the NPS has decided to reorganize the entire Part 13. This reorganization will establish several new subparts and redesignate all sections. It also redesignates numerous paragraphs as sections. A derivation table showing the old and revised section numbers follows. These changes will make the rule much easier to use by introducing new headings and eliminating many levels of subdivisions, particularly in the Glacier Bay regulations. With the exception of vessel management in Glacier Bay, the substance of the Part 13 regulations and their corresponding relationship to 36 CFR Parts 1–7 and 12 remain completely unaffected by these changes.

Part 13 Technical amendment—The NPS revised Part 13 in 2004 (69 FR 70070, Dec. 2, 2004) and inadvertently removed the hearing provision for temporary closures and restrictions relating to the taking of fish and wildlife in the old § 13.30(d) (now § 13.50(d)). We are correcting this mistake.

Section 13.1160(c)—Permits for vessels based in Bartlett Cove—As discussed in the Comments Section, the NPS decided to adopt a "transit" permit provision for private vessels. This regulation would be in effect for five years from the effective date of this final rule, allowing time for vessel owners to plan for alternatives to basing their vessels in Bartlett Cove, and for the City of Gustavus to upgrade boat facilities outside the Park. The "transit" permit would count toward the private daily vessel quota of 25. This "transit" permit could be used by several different vessels in a day provided that only one vessel is using the permit at a time. The "transit" permit could be used only to directly exit Bartlett Cove and allow the vessel to return directly to Bartlett Cove. It would not allow travel into any other part of Glacier Bay. The superintendent will develop application procedures and operating conditions as part of the compendium. The superintendent is considering the following procedures and conditions for the 2007 compendium: (1) Making a percentage of the 25 private vessel permits available on an advance-notice basis and the remaining portion on a short-notice basis (48 hours before the date for which the permit would be issued) to

accommodate visitors and local area residents; (2) one of the short notice permits would be set aside as a "transit" permit available the previous day; (3) multiple parties could use the "transit" permit so long as only one party was using the permit to transit at any given time; (4) the "transit" permit could be reserved for a given block of time; (5) the "transit" permit may not be used for travel further up the Bay or to stop and engage in other activities such as fishing; and (6) if no party reserves the "transit" permit by a specified time on the available day of travel, the permit would go back in the pool of short-notice private vessel permits that could be used to go up the Bay. The NPS welcomes comments on these provisions, and other items in the Glacier Bay compendium. The 2007 proposed Glacier Bay compendium will be available online at [www.nps.gov/glba](http://www.nps.gov/glba) and from the park directly by December 31, 2006. Comments can be made online through the park Web site or directly to the park (park address and phone number online at [www.nps.gov/glba](http://www.nps.gov/glba)).

Section 13.1176(a)(c)—Speed Restrictions—The NPS is increasing the speed limit to 13 knots from 10 knots as discussed in the proposed rule; however, the superintendent may modify the speed limit based on NOAA guidelines or new scientific information.

Section 13.1102—Definitions—The reorganized Glacier Bay regulations will have one definitions section for all of Glacier Bay. In the old 13.65 regulations, the commercial fishing and resource protection subsections each had a definitions section. Creating a single definitions section for all of Glacier Bay results in a non-substantive change to the definition of Glacier Bay with respect to commercial fishing. The old 13.65(a) commercial fishing definition of Glacier Bay was "all marine waters within Glacier Bay National Park, including coves and inlets, north of an imaginary line drawn from Point Gustavus and Point Carolus." The definition for Glacier Bay set forth in the proposed rule will now apply throughout Glacier Bay and covers the same area; however, it defines the area using coordinates. This definition of Glacier Bay is: "all waters inside a line drawn between Point Gustavus at 135°54.927' W longitude; 58°22.748' N latitude and Point Carolus at 136°2.535' W longitude; 58°22.694' N latitude."

Section 13.1104—Coordinates—The NPS added a new regulation to clarify that all coordinates referenced in subpart M use Horizontal datum World Geodetic System of 1984 (WGS 84).

DERIVATION TABLE FOR PART 13

New Section	Derived From
<b>Subpart A—Administrative Provisions</b>	
13.1	13.1
13.2	13.2
[removed]	13.3 [reserved]
13.4	13.4
[removed]	13.11–13.16 [reserved]
<b>Subpart B—General Provisions</b>	
13.20	13.10
13.25	13.18(a)
13.26	13.18(b)
13.30	13.19
13.35	13.20
13.40	13.21
13.45	13.22
13.50	13.30
13.55	13.31
<b>Subpart C—Cabins</b>	
13.100	13.17(a)
13.102	13.17(b)
13.104	13.17(c)
13.108	13.17(d)(1)
13.110	13.17(d)(2)
13.112	13.17(d)(3)
13.114	13.17(d)(4)
13.116	13.17(d)(5)
13.118	13.17(d)(6)
13.120	13.17(d)(7)
13.122	13.17(d)(8)
13.124	13.17(d)(9)
13.126	13.17(e) introductory text
13.130	13.17(e)(8)
13.136	13.17(e)(1) introductory text
13.138	13.17(e)(1)(i)
13.140	13.17(e)(1)(ii)
13.142	13.17(e)(1)(iii)
13.144	13.17(e)(2)(i)
13.146	13.17(e)(2)(ii)
13.148	13.17(e)(2)(iii)
13.149	13.17(e)(2)(iv)
13.150	13.17(e)(3)
13.160	13.17(e)(4)(i) and (ii)
13.161	13.17(e)(4)(iii)
13.162	13.17(e)(4)(iv)
13.164	13.17(e)(4)(v)
13.166	13.17(e)(4)(vi)
13.168	13.17(e)(4)(vii)
13.170	13.17(e)(5)(i)
13.172	13.17(e)(5)(ii) and (iii)
13.176	13.17(e)(6)
13.182	13.17(e)(7)(i)
13.184	13.17(e)(7)(ii)
13.186	13.17(e)(7)(iii)
13.188	13.17(e)(7)(iv)
<b>Subpart E—Special Visitor Services</b>	
13.300	13.80
13.305	13.81
13.310	13.82
13.315	13.83
13.320	13.84
13.325	13.85
13.330	13.86
13.335	13.87

DERIVATION TABLE FOR PART 13—  
Continued

New Section	Derived From
<b>Subpart F—Subsistence</b>	
13.400	13.40
13.410	13.41
13.420	13.42
13.430	13.43
13.440	13.44
13.450	13.45
13.460	13.46
13.470	13.47
13.480	13.48
13.485	13.49
13.490	13.50
13.495	13.51
<b>Subpart H—Alagnak Wild River [Reserved]</b>	
<b>Subpart I—Aniakchak National Monument and Preserve</b>	
13.602	13.60(a)
13.604	13.60(b)
<b>Subpart J—Bering Land Bridge National Preserve</b>	
13.702	13.61
<b>Subpart K—Cape Krusenstern National Monument</b>	
13.802	13.62
<b>Subpart L—Denali National Park and Preserve</b>	
13.902	13.63(a)
13.904	13.63(b)
13.906	13.63(c)
13.908	13.63(e)
13.910	13.63(f)
13.912	13.63(g)
13.914	13.63(j)
13.916	13.63(k)
13.930	13.63(d)(1)
13.932	13.63(d)(2)
13.934	13.63(d)(3)
13.936	13.63(d)(4)
13.950	13.63(h)(1)
13.952	13.63(h)(2)
13.954	13.63(h)(3)
13.956	13.63(h)(4)
13.958	13.63(h)(5)
13.960	13.63(h)(6)
13.962	13.63(h)(7)
13.970	13.63(i) introductory text
13.972	13.63(i)(1)
13.974	13.63(i)(2)
13.976	13.63(i)(3)
13.978	13.63(i)(4)
13.980	13.63(i)(5)
<b>Subpart M—Gates of the Arctic National Park and Preserve</b>	
13.1002	13.64(a)(1)
13.1004	13.64(a)(2)
13.1006	13.64(a)(3)

DERIVATION TABLE FOR PART 13—  
Continued

New Section	Derived From
<b>Subpart N—Glacier Bay National Park and Preserve</b>	
13.1102	13.65(a)(1)
13.1102	13.65(b)(1)
13.1110	13.65(b)(5)
13.1112	13.65(b)(6)
13.1114	13.65(b)(7)
13.1116	13.65(b)(8)
13.1120	13.65(b)(3)(ix)(C)(1)(v)
13.1122	13.65(b)(3)(ix)(C)(2)
13.1124	13.65(b)(3)(ix)(C)(1)(i)–(iii)
13.1126	13.65(b)(3)(ix)(C)(1)(iv)
13.1128	13.65(b)(9)
13.1130	13.65 (a)(2)
13.1132	13.65 (a)(3)
13.1134	13.65 (a)(4)
13.1136	13.65 (a)(5)
13.1138	13.65 (a)(6)
13.1140	13.65 (a)(7)
13.1142	13.65 (a)(8)
13.1144	13.65 (a)(9)
13.1146	13.65 (a)(10)
13.1150	13.65(b)(2) introductory text
13.1152	13.65(b)(2)(i)
13.1154	13.65(b)(2)(ii)
13.1156	13.65(b)(2)(iii)
13.1158	13.65(b)(2)(iv)
13.1160	13.65(b)(2)(v)
13.1170	13.65(b)(3)(i)–(iii)
13.1172	13.65(b)(3)(xi)
13.1174	13.65(b)(3)(iv)
13.1176	13.65(b)(3)(v)
13.1178	13.65(b)(3)(vi)
13.1180	13.65(b)(3)(vii)
13.1182	13.65(b)(3)(viii)
13.1184	13.65(b)(3)(ix) introductory text–(c) introductory text
13.1186	13.65(b)(4)
13.1188	13.65(b)(3)(x)

**Subpart O—Katmai National Park and Preserve**

13.1202	13.66(a)
13.1204	13.66(b)
13.1206	13.66(d)
13.1208	13.66(e)
13.1220	13.66(c) introductory text
13.1222	13.66(c)(1)
13.1224	13.66(c)(2)
13.1226	13.66(c)(3)
13.1228	13.66(c)(4)
13.1230	13.66(c)(5)
13.1232	13.66(c)(6)
13.1234	13.66(c)(7)
13.1236	13.66(c)(8)
13.1238	13.66(c)(9)
13.1240	13.66(c)(10)
13.1242	13.66(c)(11)

**Subpart P—Kenai Fjords National Park**

13.1302	13.67(a)
13.1304	13.67(b)
13.1306	13.67(c)

DERIVATION TABLE FOR PART 13—  
Continued

New Section	Derived From
<b>Subpart Q—Klondike Gold Rush National Historical Park</b>	
13.1402	13.68(a)
13.1404	13.68(b)
13.1406	13.68(c)

**Subpart R—Kobuk Valley National Park**

13.1502	13.69(a)(1)
13.1504	13.69(a)(2)

**Subpart S—Lake Clark National Park and Preserve**

13.1602	13.70
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**Subpart T—Noatak National Preserve**

[reserved]	13.71
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**Subpart U—Sitka National Historical Park**

13.1802	13.72
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**Subpart V—Wrangell-St. Elias National Park and Preserve**

13.1902	13.73(a)(1)–(3)
13.1904	13.73(b)
13.1906	13.73(c)
13.1908	13.73(d)
13.1910	13.73(e)

**Subpart W—Yukon-Charley Rivers National Preserve**

[reserved]	13.74
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**Compliance with Other Laws**

*Regulatory Planning and Review*  
(Executive Order 12866)

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These conclusions are based on the analysis contained in the final environmental impact statement and a report prepared on the economic impact of this regulation, “Economic Analysis of Vessel Management Alternatives in Glacier Bay National Park and Preserve”, prepared for the NPS, Environmental Quality Division, by Research Triangle Institute, copies available from Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826, (907) 697–2230.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. It affects only the operations of various types of motor vessels on waters managed by the park. No grants or other forms of monetary supplement are involved.

(4) This rule does not raise novel legal or policy issues.

*Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It has been determined that there will be no incremental negative impacts on small entities because revenue losses are not expected. Possible future increases in vessel quota levels relative to the baseline are expected to lead to increases in business revenue. This certification is based on information contained in the report titled “Economic Analysis of Vessel Management Alternatives in Glacier Bay National Park and Preserve” (RTI International, Health, Social, and Economic Research, Research Triangle Park, N.C. 27709), copies available from Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826, (907) 697–2230.

*Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The Final rule:

a. Does not have an annual effect on the economy of \$100 million or more. No incremental negative impacts on small businesses are expected and possible future increases in vessel quota levels will likely result in revenue growth.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The final rule will generally maintain existing patterns of vessel management in the park relative to costs or prices; and

c. Does not have significant adverse effects on competition, employment,

investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The various provisions of this rule do not apply differently to U.S.-based enterprises and foreign-based enterprises.

#### *Unfunded Mandates Reform Act (UMRA) of 1995*

This final rule does not impose an unfunded mandate on State, local or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

#### *Takings (Executive Order 12630)*

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implications assessment is not required because no taking of personal property will occur as a result of this final rule.

#### *Federalism (Executive Order 13132)*

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The final rule is limited in effect to federal lands and waters managed by the NPS and will not have a substantial direct effect on state and local government in Alaska.

#### *Civil Justice Reform (Executive Order 12988)*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. This rule does not impose a new burden on the judicial system.

#### *Paperwork Reduction Act*

This regulation requires an information collection from 10 or more parties, which must be submitted for OMB approval under the Paperwork Reduction Act. However, these are not new collection requirements and, therefore, no additional request to OMB has been prepared in conjunction with this rule. The information collection activities are necessary for the public to obtain benefits in the form of concession contracts and special use permits. Information collection associated with the award of concession contracts is covered under OMB control number 1024-0125; the information collection associated with the issuance of special

use permits is covered under OMB control number 1024-0026.

#### *National Environmental Policy Act*

A Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) were completed and a Record of Decision (ROD) issued. The FEIS and ROD are available online at: <http://www.nps.gov/glba> or at Glacier Bay National Park and Preserve, as indicated above under **FOR FURTHER INFORMATION CONTACT**.

#### *Government-to-Government Relationship With Tribes*

In accordance with Executive Order 13175 "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249); the President's memorandum of April 29, 1994, "Government to Government Relations with Native American Tribal Governments" (59 FR 22951); the Department of the Interior-Alaska Policy on Government-to-Government Relations with Alaska Native Tribes dated January 18, 2001; Part 512 of the Departmental Manual, Chapter 2, "Departmental Responsibilities for Indian Trust Resources"; and the park consultation agreement with tribal governments, the potential effects on federally-recognized Indian tribes and have been evaluated.

During the past several years, the NPS has developed an effective working relationship with the Hoonah Indian Association and other regional Native organizations with interests in matters pertaining to Glacier Bay National Park and Preserve. All parties consulted concur that Glacier Bay and Dundas Bay lie within the traditional homelands of the Hoonah Tlingits, and that the Hoonah Indian Association, a federally recognized tribal government, is the representative government for Hoonah Tlingits. During this extended consultation the full range of issues relating to vessel quotas, operating requirements, and cultural resources has been identified and discussed at length. Extensive ethnographic research had been conducted to gather detailed information about cultural resources important to Hoonah Tlingits. Meetings were held with the tribal government and with community and tribal members.

#### *Clarity of Rule*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly

stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "\$" and a numbered heading; for example § 7.XX .....). (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

*Drafting Information:* The principal contributors to this final rule were: Vic Knox, Deputy Regional Director; Tomie Lee, Superintendent, Glacier Bay National Park and Preserve; Chuck Young, Chief Ranger, Glacier Bay National Park and Preserve; Russ Wilson, Deputy Superintendent, Sequoia-Kings Canyon National Park; Jay Liggett, Jane Hendrick, Andee Hansen, Paul Hunter, Nancy Swanton, Alaska Regional Office; Jerry Case, Regulations Program Manager, WASO, and John Strylowski, Department of the Interior.

#### **List of Subjects in 36 CFR Part 13**

Alaska, National Parks, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the National Park Service revises 36 CFR part 13 to read as follows:

#### **PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA**

##### **Subpart A—Administrative Provisions**

Sec.

- 13.1 Definitions.
- 13.2 Applicability and scope.
- 13.4 Information collection.

##### **Subpart B—General Provisions**

- 13.20 Obstruction of airstrips.
- 13.25 Camping.
- 13.26 Picnicking.
- 13.30 Weapons, traps and nets.
- 13.35 Preservation of natural features.
- 13.40 Taking of fish and wildlife.
- 13.45 Unattended or abandoned property.
- 13.50 Closure procedures.
- 13.55 Permits.

##### **Subpart C—Cabins**

###### **Administrative Provisions**

- 13.100 Purpose and policy.
- 13.102 Applicability.
- 13.104 Definitions.

###### **General Provisions**

- 13.108 Permit application procedures.
- 13.110 Notice and comment on proposed permit.

- 13.112 Permit revocation.
- 13.114 Appeal procedures.
- 13.116 Permittee's interest.
- 13.118 Cabin site compatibility.
- 13.120 Access.
- 13.122 Abandonment.
- 13.124 Emergency use.
- 13.126 Authorized use and occupancy.
- 13.130 New cabins and other structures otherwise authorized.

#### **Cabin Use—Leases or Permits in Effect on December 2, 1980**

- 13.136 Use and/or occupancy pursuant to a valid existing lease or permit.
- 13.138 Renewal.
- 13.140 Denial of renewal.
- 13.142 Transfer.

#### **Cabin Use—Cabin Not Under Valid Lease or Permit as of December 1, 1978**

- 13.144 Use and occupancy of a cabin prior to December 18, 1973.
- 13.146 Use and occupancy of a cabin between December 18, 1973 and December 1, 1978.
- 13.148 Permit application.
- 13.149 Permit application deadline.

#### **Cabin Use for Commercial Fishing Activities**

- 13.150 Use for authorized commercial fishing activities.

#### **Cabin Use for Subsistence Purposes**

- 13.160 Use of cabins for subsistence purposes.
- 13.161 Permit application.
- 13.162 Permit issuance.
- 13.164 Permit terms.
- 13.166 Temporary facilities.
- 13.168 Shared use.

#### **Public Use Cabins**

- 13.170 General public use cabins.
- 13.172 Management of public use cabins.
- 13.176 Cabins in wilderness areas.

#### **Use of Temporary Facilities Related to Taking Fish and Wildlife**

- 13.182 Temporary facilities.
- 13.184 Permit application.
- 13.186 Permit issuance.
- 13.188 Permit terms.

#### **Subpart D [Reserved]**

#### **Subpart E—Special Visitor Services**

- 13.300 Applicability and scope.
- 13.305 Definitions.
- 13.310 Historical operators.
- 13.315 Preferred operators.
- 13.320 Preference to Cook Inlet Region, Incorporated.
- 13.325 Most directly affected Native Corporation.
- 13.330 Appeal procedures.
- 13.335 Information collection.

#### **Subpart F—Subsistence**

- 13.400 Purpose and policy.
- 13.410 Applicability.
- 13.420 Definitions.
- 13.430 Determination of resident zones.
- 13.440 Subsistence permits for persons whose primary, permanent home is outside a resident zone.
- 13.450 Prohibition on aircraft use.

- 13.460 Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.
- 13.470 Subsistence fishing.
- 13.480 Subsistence hunting and trapping.
- 13.485 Subsistence use of timber and plant material.
- 13.490 Closure to subsistence uses of fish and wildlife.
- 13.495 Application procedures for subsistence permits and aircraft exceptions.

#### **Subpart G [Reserved]**

#### **Subpart H—Special Regulations—Alagnak Wild River [Reserved]**

#### **Subpart I—Special Regulations—Aniakchak National Monument and Preserve**

- 13.602 Subsistence resident zone.
- 13.604 Wildlife distance conditions.

#### **Subpart J—Special Regulations—Bering Land Bridge National Preserve**

- 13.702 Off-Road Vehicles.

#### **Subpart K—Special Regulations—Cape Krusenstern National Monument**

- 13.802 Subsistence resident zone.

#### **Subpart L—Special Regulations—Denali National Park and Preserve**

##### **General Provisions**

- 13.902 Subsistence resident zone.
- 13.904 Camping.
- 13.906 Unattended or abandoned property.
- 13.908 Fishing limit of catch and in possession.
- 13.910 Mountain climbing.
- 13.912 Kantishna area summer season firearm safety zone.
- 13.914 Bicycle use.
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##### **Motor Vehicle Permits**

- 13.930 Do I need a permit to operate a motor vehicle on the Denali Park Road west of the Savage River?
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- 13.1120 Bartlett Cove Developed Area closures and restrictions.
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- 13.1130 Is commercial fishing authorized in the marine waters of Glacier Bay National Park?
- 13.1132 What types of commercial fishing are authorized in Glacier Bay?
- 13.1134 Who is eligible for a Glacier Bay commercial fishing lifetime access permit?
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- 13.1138 Where should the documentation for a lifetime access permit be sent?
- 13.1140 Who determines eligibility?
- 13.1142 Can I appeal denial of my commercial fishing lifetime access permit application?
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- 13.1146 What other closures and restrictions apply to commercial fishermen and commercial fishing vessels?

##### **Vessel Permits**

- 13.1150 Is a permit required for a vessel in Glacier Bay?
- 13.1152 Private vessel permits and conditions.
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- 13.1202 Fishing.  
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- 13.1302 Subsistence.  
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- 13.1402 Camping.  
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#### Subpart R—Special Regulations—Kobuk Valley National Park

- 13.1502 Subsistence resident zone.  
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- 13.1602 Subsistence resident zone.

#### Subpart T—Special Regulations—Noatak National Preserve [Reserved]

#### Subpart U—Special Regulations—Sitka National Historical Park

- 13.1802 Prohibited activities.

#### Subpart V—Special Regulations—Wrangell-St. Elias National Park and Preserve

- 13.1902 Subsistence.  
13.1904 Kennecott Mines National Historic Landmark (KNHL).

- 13.1906 Headquarters/Visitor Center Developed Area (HQCDA).  
13.1908 Slana Developed Area (SDA).  
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#### Subpart W—Special Regulations—Yukon-Charley Rivers National Preserve [Reserved]

**Authority:** 16 U.S.C. 1, 3, 462(k), 3101 et seq.; Subpart M also issued under 16 U.S.C. 1a–2(h), 20, 1361, 1531, 3197; Pub. L. 105–277, 112 Stat. 2681–259, October 21, 1998; Pub. L. 106–31, 113 Stat. 72, May 21, 1999; Sec. 13.1202 also issued under Sec. 1035, Pub. L. 104–333, 110 Stat. 4240, November 12, 1996.

#### Subpart A—Administrative Provisions

##### § 13.1 Definitions.

The following definitions shall apply to all regulations contained in this part:

*Adequate and feasible access* means a reasonable method and route of pedestrian or vehicular transportation which is economically practicable for achieving the use or development desired by the applicant on his/her non-Federal land or occupancy interest, but does not necessarily mean the least costly alternative.

*Aircraft* means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including, but not limited to airplanes, helicopters and gliders.

*Airstrip* means visible, marked, or known aircraft landing areas in park areas. Airstrips may be marked with cones, lights, flagging, or windsocks, or be unmarked but recognizable because they have been cleared of vegetation or other obstructions.

*ANILCA* means the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Pub. L. 96–487 (December 2, 1980)).

*Carry* means to wear, bear or carry on or about the person and additionally, in the case of firearms, within or upon a device or animal used for transportation.

*Downed aircraft* means an aircraft that as a result of mechanical failure or accident cannot take off.

*Facility* means buildings, structures, park roads as defined by § 1.4, parking lots, campgrounds, picnic areas, paved trails, and maintenance support yards.

*Firearm* means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designated to or may readily be converted to expel a projectile by the action of expanded gases, except that it does not include a pistol or rifle powered by compressed gas. The term “firearm” also includes irritant gas devices.

*Fish and wildlife* means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, produce, egg, or offspring thereof, or the dead body or part thereof.

*Fossil* means any remains, impression, or trace of any animal or plant of past geological ages that has been preserved, by natural processes, in the earth's crust.

*Gemstone* means a silica or igneous mineral including, but not limited to:

- (1) Geodes;
- (2) Petrified wood; and
- (3) Jade, agate, opal, garnet, or other mineral that when cut and polished is customarily used as jewelry or other ornament.

*Motorboat* refers to a motorized vessel other than a personal watercraft.

*National Preserve* shall include the following areas of the National Park System: Alagnak National Wild and Scenic River, Aniakchak National Preserve, Bering Land Bridge National Preserve, Denali National Preserve, Gates of the Arctic National Preserve, Glacier Bay National Preserve, Katmai National Preserve, Lake Clark National Preserve, Noatak National Preserve, Wrangell-St. Elias National Preserve, and Yukon-Charley Rivers National Preserve.

*Net* means a seine, weir, net wire, fish trap, or other implement designed to entrap fish, except a landing net.

*Off-road vehicle* means any motor vehicle designed for or capable of crosscountry travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain, except snowmachines or snowmobiles as defined in this chapter.

*Park areas* means lands and waters administered by the National Park Service within the State of Alaska.

*Person* means any individual, firm, corporation, society, association, partnership, or any private or public body.

*Possession* means exercising dominion or control, with or without ownership, over weapons, traps, nets or other property.

*Public lands* means lands situated in Alaska which are federally owned lands, except—

- (1) Land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act (72 Stat. 339) and lands which have been confirmed to,

validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) Land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (85 Stat. 688) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) Lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

*Snowmachine or snowmobile* means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow and steered by a ski or skis on contact with the snow.

*Take or taking* as used with respect to fish and wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

*Temporary* means a continuous period of time not to exceed 12 months, except as specifically provided otherwise.

*Trap* means a snare, trap, mesh, or other implement designed to entrap animals other than fish.

*Unload* means there is no unexpended shell or cartridge in the chamber or magazine of a firearm; bows, crossbows and spearguns are stored in such a manner as to prevent their ready use; muzzle-loading weapons do not contain a powder charge; and any other implement capable of discharging a missile into the air or under the water does not contain a missile or similar device within the loading or discharging mechanism.

*Weapon* means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, crossbow, blow gun, speargun, hand thrown spear, slingshot, explosive device, or any other implement designed to discharge missiles into the air or under the water.

### § 13.2 Applicability and scope.

(a) The regulations contained in part 13 are prescribed for the proper use and management of park areas in Alaska and supplement the general regulations of this chapter. The general regulations contained in this chapter are applicable except as modified by part 13.

(b) Subparts A through F contain regulations applicable to park areas. Such regulations amend in part the general regulations contained in this chapter. The regulations in subparts A through F govern use and management, including subsistence activities, within the park areas, except as modified by

special park regulations in subparts H through V.

(c) Subpart F contains regulations applicable to subsistence uses. Such regulations apply on federally owned lands and interests therein within park areas where subsistence is authorized. Subsistence uses are not allowed in Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park. The regulations in subpart F amend in part the general regulations contained in this chapter and the regulations contained in subparts A through C of part 13.

(d) Subparts H through V contain special regulations for specific park areas. Such regulations amend in part the general regulations contained in this chapter and the regulations contained in subparts A through F of part 13.

(e) Subpart E of this part 13 contains regulations applicable to authorized visitor service providers operating within certain park areas. The regulations in subpart E amend in part the general regulations contained in this chapter.

(f) For purposes of this chapter, "federally owned lands" does not include those land interests:

(1) Tentatively approved to the State of Alaska; or

(2) Conveyed by an interim conveyance to a Native corporation.

### § 13.4 Information collection.

The information collection requirements contained in subparts C and G, and §§ 13.55, 13.440, 13.450, 13.485, and 13.495 are necessary for park Superintendents to issue concession contracts and special use permits, and have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Information collections associated with the award of concession contracts are covered under OMB control number 1024-0125; the information collections associated with the issuance of special use permits are covered under OMB control number 1024-0026.

## Subpart B—General Provisions

### § 13.20 Obstruction of airstrips.

(a) A person may not place an object on the surface of an airstrip that, because of its nature or location, might cause injury or damage to an aircraft or person riding in the aircraft.

(b) A person may not dig a hole or make any kind of excavation, or drive a sled, tractor, truck, or any kind of vehicle upon an airstrip that might

make ruts, or tracks, or add to an accumulation of tracks so as to endanger aircraft using the airstrip or persons riding in the aircraft.

### § 13.25 Camping.

(a) Camping is authorized in park areas except where such use is prohibited or otherwise restricted by the Superintendent in accordance with this section, the provisions of § 13.50, or as set forth for specific park areas in subparts H through V of this part.

(b) *Site time-limits.* Camping is authorized for 14 consecutive days in one location. Camping is prohibited after 14 consecutive days in one location unless the camp is moved at least 2 miles or unless authorized by the Superintendent. A camp and associated equipment must be relocated immediately if determined by the Superintendent to be interfering with public access or other public interests or adversely impacting park resources.

(c) *Designated campgrounds.* Except at designated campgrounds, camping is prohibited on NPS facilities. The Superintendent may establish restrictions, terms, and conditions for camping in designated campgrounds. Violating restrictions, terms, and conditions is prohibited.

### § 13.26 Picnicking.

Picnicking is authorized in park areas except where such activity is prohibited or otherwise restricted by the Superintendent. The public will be notified by one or more of the following methods—

(a) Signs posted at conspicuous locations, such as normal points of entry or reasonable intervals along the boundary of the affected park locale;

(b) Maps available in the office of the Superintendent and other places convenient to the public;

(c) Publication in a newspaper of general circulation in the affected area; or

(d) Other appropriate methods, including park Web sites, brochures, maps, and handouts.

### § 13.30 Weapons, traps and nets.

(a) Irritant chemical devices, including bear spray, may be carried, possessed, and used in accordance with applicable Federal and non-conflicting State laws, except when prohibited or restricted under § 13.50.

(b) Paragraphs (d) through (g) of this section apply to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(c) Except as provided in this section and § 2.4 of this chapter, the following are prohibited—

- (1) Possessing a weapon, trap, or net;
- (2) Carrying a weapon, trap, or net;
- (3) Using a weapon, trap, or net.
- (d) Firearms may be carried,

possessed, and used within park areas in accordance with applicable State and Federal laws, except where such carrying, possession, or use is prohibited or otherwise restricted under § 13.50.

(e) Traps, bows and other implements (other than firearms) authorized by applicable State and Federal law for the taking of fish and wildlife may be carried, possessed, and used within park areas only during those times when the taking of fish and wildlife is authorized by applicable law or regulation.

(f) In addition to the authorities provided in paragraphs (d) and (e) of this section, weapons (other than firearms), traps, and nets may be possessed within park areas provided such weapons, traps, or nets are within or upon a device or animal used for transportation and are unloaded and cased or otherwise packed in such a manner as to prevent their ready use while in a park area.

(g) Notwithstanding the provisions of this section, local rural residents who are authorized to engage in subsistence uses, including the taking of wildlife under § 13.480, may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal laws.

### § 13.35 Preservation of natural features.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park, and the former Katmai National Monument.

(b) Gathering or collecting natural products is prohibited except as allowed by this section, § 2.1 of this chapter, or part 13, subparts F through V. For purposes of this paragraph, “natural products” includes living or dead fish and wildlife or parts or products thereof, plants or parts or products thereof, live or dead wood, fungi, seashells, rocks, and minerals.

(c) Gathering or collecting, by hand and for personal use only, of the following renewable resources is permitted—

- (1) Natural plant food items, including fruits, berries and mushrooms, but not including threatened or endangered species;
- (2) Driftwood and uninhabited seashells;

(3) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans; and

(4) Dead wood on the ground for use as fuel for campfires within the park area.

(d) The Superintendent may authorize, with or without conditions, the collection of dead standing wood in all or a portion of a park area. Collecting dead or downed wood in violation of terms and conditions is prohibited.

(e) Surface collection, by hand (including hand-held gold pans) and for personal recreational use only, of rocks and minerals is permitted, with the following exceptions:

- (1) Collection of silver, platinum, gemstones and fossils is prohibited; and
- (2) Collection methods that may result in disturbance of the ground surface, such as the use of shovels, pickaxes, sluice boxes, and dredges, are prohibited.

(f) The Superintendent may limit the size and quantity of the natural products that may be gathered or possessed.

(1) Under conditions where it is found that significant adverse impact on park resources, wildlife populations, subsistence uses, or visitor enjoyment of resources will result, the Superintendent will prohibit the gathering or otherwise restrict the collecting of natural products.

(2) The Superintendent will notify the public of portions of a park area in which closures or restrictions apply by:

- (i) Publishing a notice in at least one newspaper of general circulation in the State and providing a map available for public inspection in the office of the Superintendent; or
- (ii) Posting appropriate signs.

(g) *Subsistence*. Nothing in this section shall apply to local rural residents authorized to take renewable resources.

### § 13.40 Taking of fish and wildlife.

(a) [Reserved]

(b) *Fishing*. Fishing is permitted in all park areas in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations to the extent they are not inconsistent with § 2.3 of this chapter.

(c) *Commercial fishing*. The exercise of valid commercial fishing rights or privileges obtained prior to December 2, 1980, pursuant to existing law in Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of the Wrangell–St. Elias National Preserve, and the Dry Bay area of Glacier Bay National Preserve, including the use of these park areas for existing campsites,

cabins and other structures, motorized vehicles, and aircraft landings on existing airstrips, may continue provided that all such use is directly incident to the exercise of those rights or privileges.

(1) *Restrictions*. The Superintendent may restrict or revoke the exercise of a valid commercial fishing right or privilege based upon specific findings, following public notice and an opportunity for response, that continuation of such use of a park area constitutes a direct threat to or significant impairment of the values and purposes for which the park area was established.

(2) *Expansion of uses*. (i) A person holding a valid commercial fishing right or privilege may expand his or her level of use of a park area beyond the level of such use in 1979 only pursuant to the terms of a permit issued by the Superintendent.

(ii) The Superintendent may deny a permit or otherwise restrict the expanded use of a park area directly incident to the exercise of such rights or privileges, if the Superintendent determines, after conducting a public hearing in the affected locality, that the expanded use constitutes either:

(A) A significant expansion of the use of a park area beyond the level of such use during 1979 (taking into consideration the relative levels of use in the general vicinity, as well as the applicant's levels of use); or

(B) A direct threat to, or significant impairment of, the values and purposes for which the park area was established.

(d) *Hunting and trapping*. (1) Hunting and trapping are allowed in national preserves in accordance with applicable Federal and non-conflicting State law and regulations.

(2) Violating a provision of either Federal or non-conflicting State law or regulation is prohibited.

(3) Engaging in trapping activities as the employee of another person is prohibited.

(4) It shall be unlawful for a person having been airborne to use a firearm or any other weapon to take or assist in taking any species of bear, caribou, Sitka black-tailed deer, elk, coyote, arctic and red fox, mountain goat, moose, Dall sheep, lynx, bison, musk ox, wolf and wolverine until after 3 a.m. on the day following the day in which the flying occurred. This prohibition does not apply to flights on regularly scheduled commercial airlines between regularly maintained public airports.

(5) Persons transporting wildlife through park areas must identify themselves and the location where the wildlife was taken when requested by

an NPS employee or other authorized person.

(e) *Closures and restrictions.* The Superintendent may prohibit or restrict the non-subsistence taking of fish or wildlife in accordance with the provisions of § 13.50 of this chapter. Except in emergency conditions, such restrictions shall take effect only after the Superintendent has consulted with the appropriate State agency having responsibility over fishing, hunting, or trapping and representatives of affected users.

**§ 13.45 Unattended or abandoned property.**

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park and Sitka National Historical Park, or as further restricted for specific park areas in subparts H through V of this part.

(b) *Personal property.* (1) Leaving personal property longer than 4 months is prohibited. The Superintendent may authorize property to be left in place for more than 4 months.

(2) Identification information is required for all personal property left in park areas. Identification information consists of the owner's name, home address, telephone number, date that the property was left, and the type of fuel if the property contains fuel. This information must be—

- (i) Labeled on the property; or
- (ii) Provided to the Superintendent.

(3) All property must be stored in such a manner that wildlife is unable to access the contents. Storing property in a manner that wildlife can access contents is prohibited.

(4) Leaving fuel in more than one location in a park area or leaving more than 30 gallons of fuel is prohibited unless authorized by the Superintendent.

(5) Storing fuel within 100 feet of a water source, high water mark of a body of water, or mean high tide is prohibited unless stored in a spill proof overpack container or authorized by the Superintendent. Fuel must be contained in an undamaged and closed fuel container designed for fuel storage. Fueling from containers must occur in such a manner that any spillage would be prevented from coming into contact with water, soil, or vegetation. Failure to properly contain or prevent spillage is prohibited.

(6) Leaving property unattended for longer than 24 hours on facilities is prohibited unless authorized by the Superintendent.

(7) Property left in violation of this section is prohibited and subject to

impoundment and, if abandoned, disposal or forfeiture.

(c) The Superintendent may designate areas where personal property may not be left unattended for any time period, establish limits on the amount and type of personal property that may be left unattended, prescribe the manner in which personal property may be left unattended, or establish limits on the length of time personal property may be left unattended. Such designations and restrictions shall be published in at least one newspaper of general circulation within the State, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected community, and designated on a map which shall be available for public inspection at the office of the Superintendent, or designated by the posting of appropriate signs, or both.

(d) In the event unattended property interferes with the safe and orderly management of a park area or is causing damage to the resources of the area, it may be impounded by the Superintendent at any time.

**§ 13.50 Closure procedures.**

(a) *Authority.* The Superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity on an emergency basis, the Superintendent shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the park area was established.

(c) *Emergency Closures.* (1) Emergency closures or restrictions relating to the taking of fish and wildlife shall be accomplished by notice and hearing.

(2) Other emergency closures shall become effective upon notice as prescribed in paragraph (f) of this section; and

(3) No emergency closure or restriction shall extend for a period exceeding 30 days, nor may it be extended.

(d) *Temporary closures or restrictions.*

(1) Temporary closures or restrictions relating to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures

or restrictions, and other locations as appropriate;

(2) Temporary closures shall be effective upon notice as prescribed in paragraph (f) of this section; and

(3) Temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be published as rulemaking in the **Federal Register** with a minimum public comment period of 60 days and shall be accompanied by public hearings in the area affected and other locations as appropriate.

(f) *Notice.* Emergency, temporary, and permanent closures or restrictions shall be:

(1) Published in at least one newspaper of general circulation in the State and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Superintendent and other places convenient to the public;

(2) Designated by the posting of appropriate signs; or

(3) Both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Superintendent shall provide notice in the **Federal Register** and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(h) *Facility closures and restrictions.* The Superintendent may close or restrict specific facilities for reasons of public health, safety, and protection of public property for the duration of the circumstance requiring the closure or restriction. Notice of facility closures and restrictions will be available for inspection at the park visitor center. Notice will also be posted near or within the facility, published in a newspaper of general circulation in the affected vicinity, or made available to the public by such other means as deemed appropriate by the Superintendent. Violating facilities closures or restrictions is prohibited.

(i) Except as otherwise specifically permitted under the provisions of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

**§ 13.55 Permits.**

(a) *Application.* (1) Application for a permit required by any section of this part shall be submitted to the Superintendent having jurisdiction over the affected park area, or in the absence of the Superintendent, the Regional Director. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application.

(2) The Superintendent shall grant or deny the application in writing within 45 days. If this deadline cannot be met for good cause, the Superintendent shall so notify the applicant in writing. If the permit application is denied, the Superintendent shall specify in writing the reasons for the denial.

(b) *Denial and appeal procedures.* (1) An applicant whose application for a permit, required pursuant to this part, has been denied by the Superintendent has the right to have the application reconsidered by the Regional Director by contacting him/her within 180 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(i) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in the section under which the permit application is made.

(ii) The basis for the permit applicant's disagreement with the Superintendent's findings and conclusions; and

(iii) Whether or not the permit applicant requests an informal hearing before the Regional Director.

(2) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

**Subpart C—Cabins****Administrative Provisions****§ 13.100 Purpose and policy.**

The policy of the National Park Service is to manage the use, occupancy and disposition of cabins and other structures in park areas in accordance with the language and intent of

ANILCA, the National Park Service Organic Act (16 U.S.C. 1 *et seq.*) and other applicable law. Except as Congress has directly and specifically provided to the contrary, the use, occupancy and disposition of cabins and other structures in park areas shall be managed in a manner that is compatible with the values and purposes for which the National Park System and these park areas have been established. In accordance with this policy, this subpart governs the following authorized uses of cabins and other structures in park areas:

(a) Use and/or occupancy pursuant to a valid existing lease or permit;

(b) Use and occupancy of a cabin not under valid existing lease or permit;

(c) Use for authorized commercial fishing activities;

(d) Use of cabins for subsistence purposes;

(e) Public use cabins; and

(f) Use of temporary facilities related to the taking of fish and wildlife.

**§ 13.102 Applicability.**

Unless otherwise specified, this subpart applies to all park areas in Alaska except Klondike Gold Rush National Historical Park and Sitka National Historical Park.

**§ 13.104 Definitions.**

The following definitions apply to this subpart:

*Cabin* means a small, usually one-story dwelling of simple construction, completely enclosed, with a roof and walls which may have windows and door(s).

*Claimant* means a person who has occupied and used a cabin or other structure as a primary, permanent residence for a substantial portion of the time, and who, when absent, has the intention of returning to it as his/her primary, permanent residence. Factors demonstrating a person's primary, permanent residence include, but are not limited to documentary evidence, e.g. the permanent address indicated on licenses issued by the State of Alaska and tax returns and the location where the person is registered to vote.

*Immediate family member* means a claimant's spouse, or a grandparent, parent, brother, sister, child or adopted child of a claimant or of the claimant's spouse.

*Possessory interest* means the partial or total ownership of a cabin or structure. "Right of occupancy" means a valid claim to use or reside in a cabin or other structure.

*Shelter* means a structure designed to provide temporary relief from the elements and is characterized as a lean-to having one side open.

*Substantial portion of the time* means at least 50 percent of the time since beginning occupancy and at least 4 (four) consecutive months of continuous occupancy in every calendar year after 1986.

*Temporary campsite* means a natural, undeveloped area suitable for the purpose of overnight occupancy without modification.

*Temporary facility* means a structure or other manmade improvement that can be readily and completely dismantled and/or removed from the site when the authorized use terminates. The term does not include a cabin.

*Tent platform* means a structure, usually made of manufactured timber products, constructed to provide a solid, level floor for a tent, with or without partial walls not exceeding three feet in height above the floor, and having only the tent fabric, the ridge pole and its support poles extending higher than three feet above the floor.

**General Provisions****§ 13.108 Permit application procedures.**

Except as otherwise specified in this subpart, the procedures set forth in § 13.55(a) govern application for any permit authorized pursuant to this subpart.

**§ 13.110 Notice and comment on proposed permit.**

Before a permit for the use and occupancy of a cabin or other structure is issued pursuant to this subpart, the Superintendent shall publish notice of the proposed issuance in the local media and provide a public comment period of at least sixty days, subject to the following exceptions: Prior notice and comment are not required for a permit authorizing use and occupancy for 14 days or less of a public use cabin or use and occupancy of a temporary facility for the taking of fish or wildlife for sport or subsistence purposes.

**§ 13.112 Permit revocation.**

(a) The superintendent may revoke a permit or lease issued pursuant to this subpart when the superintendent determines that the use under the permit or lease is causing or may cause significant detriment to the principal purposes for which the park area was established. *Provided, however*, that if a permittee submits a written request for a hearing concerning the revocation, based on the cause listed above, of a permit or lease issued pursuant to §§ 13.130, 13.136–13.149, or 13.160–168 of this subpart, the matter shall be assigned to an administrative law judge who, after notice and hearing and based on substantial evidence in the

administrative record as a whole, shall render a recommended decision for the superintendent's review. The superintendent shall then accept, reject or modify the administrative law judge's recommended decision in whole or in part and issue a final decision in writing.

(b) The superintendent may revoke or modify any permit or lease issued pursuant to this subpart when the permittee violates a term of the permit or lease.

#### **§ 13.114 Appeal procedures.**

The procedures set forth in § 13.55(b) govern appeals of a permit denial, a denial of a permit renewal, a permit revocation and a superintendent's final decision on a permit revocation issued pursuant to § 13.112(a).

#### **§ 13.116 Permittee's interest.**

(a) A permittee shall not accrue a compensable interest in a cabin or other structure in a park area unless specifically authorized by Federal statutory law.

(b) A cabin or other structure in a park area may not be sold, bartered, exchanged, assigned or included as a portion of any sale or exchange of other property by a permittee unless specifically authorized by Federal statutory law.

(c) The Superintendent shall determine the extent and nature of a permittee's possessory interest at the time a permit is issued or denied.

#### **§ 13.118 Cabin site compatibility.**

The Superintendent shall establish permit conditions that require a permittee—

(a) When constructing, maintaining or repairing a cabin or other structure authorized under this subpart, to use materials and methods that blend with and are compatible with the immediate and surrounding landscape; and

(b) When terminating an activity that involves a structure authorized under this subpart, to dismantle and remove the structure and all personal property from the park area within a reasonable period of time and in a manner consistent with the protection of the park area.

#### **§ 13.120 Access.**

(a) A permittee under this subpart who holds a permit for use and occupancy of a cabin or other structure located on public lands in a park area, not under valid existing lease or permit in effect on December 2, 1980, does not have a "valid property or occupancy interest" for purposes of ANILCA section 1110(b) and its implementing regulations.

(b) When issuing a permit under this subpart, the Superintendent shall provide for reasonable access which is appropriate and consistent with the values and purposes for which the park area was established.

(c) All impacts of the access to a cabin or other structure are deemed to be a part of, and shall be considered in any evaluation of, the effects of a use authorized by a permit issued under this subpart.

#### **§ 13.122 Abandonment.**

(a) An existing cabin or other structure not under valid lease or permit, and its contents, are abandoned:

(1) When no permit application has been received for its use and occupancy before October 20, 1987, one year after the effective date of this subpart; or

(2) One year after a permit application for its use and occupancy has been denied or a permit for its use and occupancy has been revoked, denied or has expired.

(b) A claimant or applicant whose application for a permit has been denied or whose permit has expired may remove all or a portion of a cabin or other structure and its contents from a park area, to the extent of his or her possessory interest and under conditions established by the Superintendent, until the date the cabin or structure is considered abandoned.

(c) The contents of a cabin or other structure are considered abandoned when the cabin or other structure is considered abandoned.

(d) A person whose permit for the use and occupancy of a cabin or other structure is revoked may remove his or her personal property from a park area under conditions established by the Superintendent until one year after the date of the permit's revocation.

(e) The Superintendent shall dispose of abandoned property in accordance with §§ 2.22 and 13.45 of this chapter.

No property shall be removed from a cabin until such property has been declared abandoned or determined to constitute a direct threat to the safety of park visitors or area resources.

#### **§ 13.124 Emergency use.**

During an emergency involving the safety of human life, a person may use any cabin designated by the Superintendent for official government business, general public use or shared subsistence use. The person shall report such use to the Superintendent as soon as is practicable.

#### **§ 13.126 Authorized cabin use and occupancy.**

Use or occupancy of a cabin or structure in a park area is prohibited,

except pursuant to the terms of a permit issued by the Superintendent under this subpart or as otherwise authorized by provisions of this chapter.

#### **§ 13.130 New cabins and other structures otherwise authorized.**

The Superintendent may issue a permit for the construction, temporary use, occupancy, and maintenance of a cabin or other structure which is authorized by law but not governed by any other section in this subpart.

#### **Cabin Use—Leases or Permits in Effect on December 2, 1980**

#### **§ 13.136 Use and/or occupancy pursuant to a valid existing lease or permit.**

A person who holds a valid lease or permit in effect on December 2, 1980, for a cabin, homesite or similar structure not subject to the provisions of §§ 13.146–13.149 of this subpart, on Federal lands in a park area, may continue the use authorized by that lease or permit, subject to the conditions in §§ 13.138–13.142.

#### **§ 13.138 Renewal.**

The Superintendent shall renew a valid lease or permit upon its expiration in accordance with the provisions of the original lease or permit, subject to any modifications or new conditions that the Superintendent finds necessary for the protection of the values and purposes of the park area.

#### **§ 13.140 Denial of renewal.**

The Superintendent may deny the renewal or continuation of a valid lease or permit only after issuing specific findings, following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation constitutes a direct threat to, or a significant impairment of, the purposes for which the park area was established.

#### **§ 13.142 Transfer.**

Subject to any prohibitions or restrictions that apply to transfer in the existing lease or permit, the Superintendent may transfer a valid existing lease or permit to another person at the election or death of the original permittee or leaseholder, only if the Superintendent determines that:

(a) The continued use is appropriate and compatible with the values and purposes of the park area;

(b) The continued use is non-recreational in nature;

(c) There is no demonstrated overriding need for public use; and

(d) The continued use and occupancy will not adversely impact soils, vegetation, water or wildlife resources.

**Cabin Use—Cabin Not Under Valid Lease or Permit as of December 1, 1978****§ 13.144 Use and occupancy of a cabin prior to December 18, 1973.**

A cabin or other residential structure in existence and occupied by a claimant, both prior to December 18, 1973, with the claimant's occupancy continuing for a substantial portion of the time, may continue to be used and occupied by the claimant pursuant to a renewable, nontransferable five-year permit. Upon the request of the claimant or a successor who is an immediate family member and residing in the cabin or structure, the Superintendent shall renew this permit every five years until the death of the last immediate family member of the claimant who was residing with the claimant in the structure under permit at the time of issuance of the original permit.

**§ 13.146 Use and occupancy of a cabin between December 18, 1973 and December 1, 1978.**

A cabin or other residential structure in existence prior to December 1, 1978, with occupancy commenced by a claimant between December 18, 1973 and December 1, 1978, which a claimant has continued to occupy or use for a substantial portion of the time, may continue to be used and occupied by the claimant pursuant to a non-transferable permit. The Superintendent may issue and extend such permit for a term not to exceed December 1, 1999 for such reasons as are deemed by the Superintendent to be equitable and just. The Superintendent shall review the permit at least every two years and modify the permit as necessary to protect park resources and values.

**§ 13.148 Permit application.**

In order to obtain, renew or extend a permit, a claimant shall submit a written application. In the case of an application to renew or extend a permit issued pursuant to §§ 13.144 or 13.146, if no circumstance relating to the permittee's occupancy and use of the cabin or structure has changed in the interim, applicable material submitted by the permittee to satisfy the original application requirements is considered sufficient and need not be resubmitted. The following information is required to be included in a permit application:

(a) Reasonable proof of possessory interest or right of occupancy in the cabin or structure, demonstrated by affidavit, bill of sale, or other documentation. In order for a claimant to qualify for a permit described in section 13.144, the claimant's possessory interest or right of occupancy must have been acquired

prior to December 18, 1973. In order for a claimant to qualify for a permit described in section 13.146, the claimant's possessory interest or right of occupancy must have been acquired prior to December 1, 1978;

(b) A sketch or photograph that accurately depicts the cabin or structure;

(c) A map that shows the geographic location of the cabin or structure;

(d) The claimant's agreement to vacate and remove all personal property from the cabin or structure upon expiration of the permit;

(e) The claimant's acknowledgement that he or she has no legal interest in the real property on which the cabin or structure is located;

(f) Reasonable proof that the claimant has lived in the cabin or structure during a substantial portion of the time and continues to use the cabin or other structure as a primary, permanent residence; and

(g) A list of all immediate family members residing with the claimant within the cabin or structure for which the application is being submitted. Such list need only include those immediate family members who will be eligible to continue to use and occupy the cabin or other structure upon the death or departure of the original claimant.

**§ 13.149 Permit application deadline.**

The deadline for receipt of a permit application for the occupancy and use of an existing cabin or other structure described in §§ 13.144 or 13.146 is October 20, 1987. The Superintendent may extend this deadline for a reasonable period of time only when a permit applicant demonstrates that extraordinary circumstances prevented timely application.

**Cabin Use for Commercial Fishing Activities****§ 13.150 Use for authorized commercial fishing activities.**

The use of a campsite, cabin or other structure in conjunction with commercial fishing activities authorized by section 205 of ANILCA in Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of Wrangell-Saint Elias National Preserve, and the Dry Bay area of Glacier Bay National Preserve is authorized pursuant to the provisions of § 13.40(c) of this chapter and the terms of a permit issued by the Superintendent.

**Cabin Use for Subsistence Purposes****§ 13.160 Use of cabins for subsistence purposes.**

(a) A local rural resident who is an eligible subsistence user may use an

existing cabin or other structure or temporary facility or construct a new cabin or other structure, including temporary facilities, in a portion of a park area where subsistence use is allowed, pursuant to the applicable provisions of subparts F through V of this part and the terms of a permit issued by the Superintendent. However, the Superintendent may designate existing cabins or other structures that may be shared by local rural residents for authorized subsistence uses without a permit.

(b) For purposes of this section, the term "local rural resident", with respect to national parks, monuments, and preserve, is defined in § 13.420 of this chapter.

**§ 13.161 Permit application.**

In order to obtain or renew a permit, a person shall submit an application. In the case of an application to renew a permit issued pursuant to § 13.160, if no circumstance relating to the permittee's occupancy and use of the cabin or structure has changed in the interim, applicable material submitted by the permittee to satisfy the original application requirements is considered sufficient and need not be resubmitted. The following information is required to be included in a permit application:

(a) An explanation of the applicant's need for the cabin or structure;

(b) A description of an applicant's past, present and anticipated future subsistence uses relevant to his or her need for the cabin or structure;

(c) A blueprint, sketch or photograph of the cabin or structure;

(d) A map that shows the geographic location of the cabin or structure; and

(e) A description of the types of occupancy and schedule for use of the cabin or structure. All information may be provided orally except the cabin blueprint, sketch or photograph and the map.

**§ 13.162 Permit issuance.**

(a) In making a decision on a permit application, the Superintendent shall consider whether the use by local rural residents of a cabin or other structure for subsistence purposes is customary and traditional in that park area and shall determine whether the use and occupancy of a new or existing cabin or structure is "necessary to reasonably accommodate" the applicant's subsistence uses. In making this determination, the Superintendent shall examine the applicant's particular circumstances, including but not limited to his or her past patterns of subsistence uses and his or her future subsistence use plans, reasonable

subsistence use alternatives, the specific nature of the subsistence uses to be accommodated by the cabin or structure, the impacts of the cabin or structure on other local rural residents who depend on subsistence uses and the impacts of the proposed structure and activities on the values and purposes for which the park area was established.

(b) The Superintendent may permit the construction of a new cabin or other new structure for subsistence purposes only if a tent or other temporary facility would not adequately and reasonably accommodate the applicant's subsistence uses without significant hardship and the use of no other type of cabin or other structure provided for in this subpart can adequately and reasonably accommodate the applicant's subsistence uses with a lesser impact on the values and purposes for which the park area was established.

#### **§ 13.164 Permit terms.**

The Superintendent shall, among other conditions, establish terms of a permit that:

(a) Allow for use and occupancy during the harvest or gathering of subsistence resources, at such times as may be reasonably necessary to prepare for a harvest season (*e.g.*, opening or closing a cabin or structure at the beginning or end of a period of use), and at other times reasonably necessary to accommodate the permittee's specified subsistence uses;

(b) Prohibit residential use in conjunction with subsistence activities; and

(c) Limit the term of a permit to a period of five years or less.

#### **§ 13.166 Temporary facilities.**

A temporary facility or structure directly and necessarily related to the taking of subsistence resources may be constructed and used by a qualified subsistence user without a permit so long as such use is for less than thirty days and the site is returned to a natural condition. The Superintendent may establish conditions and standards governing the use or construction of these temporary structures and facilities which shall be published annually in accordance with § 1.7 of this chapter.

#### **§ 13.168 Shared use.**

In any permit authorizing the construction of a cabin or other structure necessary to reasonably accommodate authorized subsistence uses, the Superintendent shall provide for shared use of the facility by the permittee and other local rural residents

rather than for exclusive use by the permittee.

#### **Public Use Cabins**

##### **§ 13.170 General public use cabins.**

The Superintendent may designate a cabin or other structure located outside of designated wilderness areas and not otherwise under permit under this subpart (or under permit for only a portion of the year) as a public use cabin. Such designated public use cabins are intended for short term recreational use and occupancy only.

##### **§ 13.172 Management of public use cabins.**

The Superintendent may establish conditions and develop an allocation system in order to manage the use of designated public use cabins. The Superintendent shall mark all public use cabins with a sign and shall maintain a map showing their locations.

##### **§ 13.176 Cabins in wilderness areas.**

The use and occupancy of a cabin or other structure located in a designated wilderness area are subject to the other applicable provisions of this subpart, and the following conditions:

(a) A previously existing public use cabin located within wilderness designated by ANILCA may be allowed to remain and may be maintained or replaced subject to such restrictions as the Superintendent finds necessary to preserve the wilderness character of the area. As used in this section, the term "previously existing public use cabin" means a cabin or other structure which, on November 30, 1978, was recognized and managed by a Federal land managing agency as a structure available for general public use.

(b) Within a wilderness area designated by ANILCA, a new public use cabin or shelter may be constructed, maintained and used only if necessary for the protection of the public health and safety.

(c) A cabin or other structure located in a designated wilderness area may not be designated, assigned or used for commercial purposes, except that designated public use cabins may be used in conjunction with commercial guided visitor services, but not to the exclusion of the general public.

#### **Use of Temporary Facilities Related to Taking Fish and Wildlife**

##### **§ 13.182 Temporary facilities.**

In a national preserve where the taking of fish and wildlife is permitted, the construction, maintenance or use of a temporary campsite, tent platform, shelter or other temporary facility or equipment directly and necessarily

related to such activities is prohibited except pursuant to the terms of a permit issued by the Superintendent. This requirement applies only to a temporary facility that will remain in place for a period longer than 14 days.

##### **§ 13.184 Permit application.**

In order to obtain or renew a permit, a person shall submit an application. In the case of an application to renew a permit issued pursuant to this section and § 13.186, if no circumstance relating to the permittee's occupancy and use of the structure has changed in the interim, applicable material submitted by the permittee to satisfy the original application requirements is considered sufficient and need not be resubmitted. The following information is required to be included in a permit application:

(a) An explanation of the applicant's need for the temporary facility, including a description of the applicant's hunting and fishing activities relevant to his or her need for the facility;

(b) A diagram, sketch or photograph of the temporary facility;

(c) A map that shows the geographic location of the temporary facility; and

(d) A description of both the past use (if any) and the desired use of the temporary facility, including a schedule for its projected use and removal. All information may be provided orally except the diagram, sketch or photograph of the facility and the map.

##### **§ 13.186 Permit issuance.**

(a) In making a decision on a permit application, the Superintendent shall determine whether a temporary facility is "directly and necessarily related to" the applicant's legitimate hunting and fishing activities by examining the applicant's particular circumstances, including, but not limited to his or her reasonable need for a temporary facility and any reasonable alternatives available that are consistent with the applicant's needs. The Superintendent shall also consider whether the proposed use would constitute an expansion of existing facilities or use and would be detrimental to the purposes for which the national preserve was established. If the Superintendent finds that the proposed use would either constitute an expansion above existing levels or be detrimental to the purposes of the preserve, he/she shall deny the permit. The Superintendent may authorize the replacement or relocation within the national preserve of an existing temporary facility or structure.

(b) The Superintendent shall deny an application for a proposed use that

would exceed a ceiling or allocation established pursuant to the national preserve's General Management Plan.

#### § 13.188 Permit terms.

The Superintendent shall allow for use and occupancy of a temporary facility only to the extent that such facility is directly and necessarily related to the permittee's hunting and fishing activities, and shall provide that the temporary facility be used and maintained in a manner consistent with the protection of the values and purposes of the park area in which it is located. The Superintendent may also establish permit terms that:

(a) Limit use to a specified period, not to exceed the applicable hunting or fishing season and such additional brief periods necessary to maintain the facility before and after the season;

(b) Require the permittee to remove a temporary facility and all associated personal property from the park area upon termination of the permittee's hunting and fishing activities and related use of the facility or on a specific date;

(c) Require reasonable seasonal relocation of a temporary facility in order to protect the values and purposes for which the park area was established;

(d) Require that a temporary facility be used on a shared basis and not exclusively by the permittee; and

(e) Limit the overall term of a permit to a reasonable period of time, not to exceed one year.

#### Subpart D—[Reserved]

#### Subpart E—Special Visitor Services

##### § 13.300 Applicability and scope.

(a) Except as otherwise provided for in this section, the regulations contained in this part apply to visitor services provided within all national park areas in Alaska.

(b) The rights granted by this subpart to historical operators, preferred operators, and Cook Inlet Region, Incorporated are not exclusive. The Director may authorize other persons to provide visitor services on park lands. Nothing in this subpart shall require the Director to issue a visitor services authorization if not otherwise mandated by statute to do so. Nothing in this subpart shall authorize the Director to issue a visitor services authorization to a person who is not capable of carrying out its terms and conditions in a satisfactory manner.

(c) This subpart does not apply to the guiding of sport hunting or sport fishing.

##### § 13.305 Definitions.

The following definitions apply to this subpart:

*Best offer* means a responsive offer that best meets, as determined by the Director, the selection criteria contained in a competitive solicitation for a visitor services authorization.

*Controlling interest* means, in the case of a corporation, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

*Controlling interest* in the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, means a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity. In other circumstances, *controlling interest* means any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

*Director* means the Director of the National Park Service or an authorized representative.

*Historical operator*, except as otherwise may be specified by a statute other than ANILCA, means the holder of a valid written authorization from the Director to provide visitor services within a park area that:

(1) On or before January 1, 1979, was lawfully engaged in adequately providing such visitor services in the applicable park area;

(2) Has continued, as further defined in § 13.310, to lawfully provide that visitor service since January 1, 1979, without a change in controlling interest; and

(3) Is otherwise determined by the Director to have a right to continue to provide such services or similar services pursuant to § 13.310.

*Local area* means an area in Alaska within 100 miles of the location within the park area where any of the applicable visitor services is authorized to be provided.

*Local resident* means:

*For individuals.* Those individuals who have lived within the local area for 12 consecutive months before issuance of a solicitation of offers for a visitor services authorization for a park area and who maintain their primary, permanent residence and business within the local area and whenever absent from this primary, permanent residence, have the intention of returning to it. Factors demonstrating

the location of an individual's primary, permanent residence and business may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska, tax returns and voter registration.

*For corporations.* A corporation in which the controlling interest is held by an individual or individuals who qualify as *local resident(s)* within the meaning of this subpart. For non-profit corporations a majority of the board members and a majority of the officers must qualify individually as local residents.

*Native Corporation* means the same as defined in section 102(6) of ANILCA.

*Preferred operator* means a Native Corporation that is determined under § 13.325 to be "most directly affected" by the establishment or expansion of a park area by ANILCA, or a local resident as defined in this subpart.

*Responsive offer* is one that is timely received and meets the terms and conditions of a solicitation for a visitor services authorization.

*Visitor services authorization* is a written authorization from the Director to provide visitor services in a park area. Such authorization may be in the form of a concession permit, concession contract, or other document issued by the Director under National Park Service policies and procedures.

##### § 13.310 Historical operators.

(a) A historical operator will have a right to continue to provide visitor services in a park area under appropriate terms and conditions contained in a visitor services authorization issued by the Director as long as such services are determined by the Director to be consistent with the purposes for which the park area was established. A historical operator may not operate without such an authorization. The authorization will be for a fixed term. Failure to comply with the terms and conditions of the authorization will result in cancellation of the authorization and consequent loss of historical operator rights under this subpart.

(b) Nothing in this subpart will prohibit the Director from permitting persons in addition to historical operators to provide visitor services in park areas at the Director's discretion as long as historical operators are permitted to conduct a scope and level of visitor services equal to those provided before January 1, 1979, under terms and conditions consistent with this subpart. A historical operator may be permitted by the Director under separate authority to increase the scope or level of visitor services provided

prior to January 1, 1979, but no historical operating rights will be obtained in such increase.

(c) If a historical operator applies for a visitor services authorization in the form of a joint venture, the application will not be considered as validly made unless the historical operator demonstrates, to the satisfaction of the Director, that it has the controlling interest in the joint venture.

(d) A historical operator may apply to the Director for an authorization or amended authorization to provide visitor services similar to those it provided before January 1, 1979. The Director will grant the request if such visitor services are determined by the Director to be:

(1) Consistent with the protection of park resources and the purposes for which the park area was established;

(2) Similar in kind and scope to the visitor services provided by the historical operator before January 1, 1979; and

(3) Consistent with the legal rights of any other person.

(e) When a historical operator's visitor services authorization expires, and if the applicable visitor services continue to be consistent with the purposes for which the park area was established as determined by the Director, the Director will offer to renew the authorization for a fixed term under such new terms and conditions as the Director determines are in the public interest.

(f) If the Director determines that authorized visitor services must be curtailed or reduced in scope, level, or season to protect park resources, or for other purposes, the Director will require the historical operator to make such changes in visitor services. If more than one historical operator providing the same type of visitor services is required to have those services curtailed, the Director will establish a proportionate reduction of visitor services among all such historical operators, taking into account historical operating levels and other appropriate factors so as to achieve a fair curtailment of visitor services among the historical operators. If the level of visitor services must be so curtailed that only one historical operator feasibly may continue to provide the visitor services, the Director will select one historical operator to continue to provide the curtailed visitor services through a competitive selection process.

(g) Any of the following will result in loss of historical operator status:

(1) Revocation of an authorization for historic types and levels of visitor services for failure to comply with the

terms and conditions of the authorization.

(2) A historical operator's declination of a renewal of the authorization made pursuant to paragraph (d) of this section.

(3) A change in the controlling interest of the historical operator through sale, assignment, devise, transfer, or by any other means, direct or indirect. A change in the controlling interest of a historical operator that results only in the acquisition of the controlling interest by an individual or individuals who were personally engaged in the visitor services activities of the historical operator before January 1, 1979, will not be deemed a change in the historical operator's controlling interest for the purposes of this subpart.

(4) A historical operator's failure to provide the authorized services for more than 24 consecutive months.

(h) The Director may authorize other persons to provide visitor services in a park area in addition to historical operators.

#### **§ 13.315 Preferred operators.**

(a) In selecting persons to provide visitor services for a park area, the Director will, if the number of visitor services authorizations is to be limited, give a preference (subject to any rights of historical operators or CIRI under this subpart) to preferred operators determined qualified to provide such visitor services.

(b) In such circumstances, the Director will publicly solicit competitive offers for persons to apply for a visitor services authorization, or the renewal of such an authorization, to provide such visitor services pursuant to 36 CFR part 51 and/or other National Park Service procedures. All offerors, including preferred operators, must submit a responsive offer to the solicitation in order to be considered for the authorization. If the best offer from a preferred operator is at least substantially equal to the best offer from a non-preferred operator, the preferred operator will receive authorization. If an offer from a person besides a preferred operator is determined to be the best offer (and no preferred operator submits a responsive offer that is substantially equal to it), the preferred operator who submitted the best offer from among the offers submitted by preferred operators will be given the opportunity, by amending its offer, to meet the terms and conditions of the best offer received. If the amended offer of such a preferred operator is considered by the Director as at least substantially equal to the best offer, the preferred operator will receive the visitor service authorization.

If a preferred operator does not amend its offer to meet the terms and conditions of the best offer, the Director will issue the authorization to the person who submitted the best offer in response to the solicitation.

(c) The Native Corporation(s) determined to be "most directly affected" under this subpart and local residents have equal preference. The rights of preferred operators under this section take precedence over the right of preference that may be granted to existing satisfactory National Park Service concessioners pursuant to the Concessions Policy Act (16 U.S.C. 20) and its implementing regulations and procedures, but do not take precedence over the rights of historical operators or CIRI as described in this subpart.

(d) An offer from a preferred operator under this subpart, if the offer is in the form of a joint venture, will not be considered valid unless it documents to the satisfaction of the Director that the preferred operator holds the controlling interest in the joint venture.

(e) Nothing in this subpart will prohibit the Director from authorizing persons besides preferred operators to provide visitor services in park areas as long as the procedures described in this section have been followed. Preferred operators are not entitled by this section to provide all visitor services in a park area.

(f) The preferences described in this section may not be sold, assigned, transferred or devised, directly or indirectly.

#### **§ 13.320 Preference to Cook Inlet Region, Incorporated.**

(a) The Cook Inlet Region, Incorporated (CIRI), in cooperation with village corporations within the Cook Inlet region when appropriate, will have a right of first refusal to provide new visitor services within that portion of Lake Clark National Park and Preserve that is within the boundaries of the Cook Inlet region. In order to exercise this right of first refusal, the National Park Service will publicly solicit competitive offers for the visitor services authorization pursuant to 36 CFR part 51 or other applicable National Park Service procedures. CIRI must submit a responsive offer within 90 days of such solicitation. If CIRI makes such an offer and is determined by the Director to be capable of carrying out the terms and conditions of the visitor services authorization, it will receive the authorization. If it does not, the authorization may be awarded to another person pursuant to usual National Park Service policies and procedures if otherwise appropriate.

(b) The CIRI right of first refusal will have precedence over the rights of preferred operators. An offer from CIRI under this section, if the offer is in the form of a joint venture, will not be considered valid unless it demonstrates to the satisfaction of the Director that CIRI has a controlling interest in the joint venture.

(c) The CIRI right of first refusal may not be sold, transferred, devised or assigned, directly or indirectly.

**§ 13.325 Most directly affected Native Corporation.**

(a) Before the award of the first visitor service authorization in a park area to be made after the effective date of this subpart, the Director will provide an opportunity for any Native Corporation interested in providing visitor services within the applicable park area to submit an application to the superintendent to be determined the Native Corporation most directly affected by the establishment or expansion of the park area by or under the provisions of ANILCA. An application from an interested Native Corporation will include the following information:

(1) Name, address, and phone number of the Native Corporation; date of incorporation; its articles of incorporation and structure;

(2) Location of the corporation's population center or centers; and

(3) An assessment of the socioeconomic impacts, including historical and traditional use and land-ownership patterns and their effects on the Native Corporation as a result of the expansion or establishment of the applicable park area by ANILCA.

(4) Any additional information the Native Corporation considers relevant or the Director may reasonably require.

(b) Upon receipt of all applications from interested Native Corporations, the Director will determine the "most directly affected" Native Corporation considering the following factors:

(1) Distance and accessibility from the corporation's population center and/or business address to the applicable park area; and

(2) Socioeconomic impacts, including historical and traditional use and landownership patterns, on Native Corporations and their effects as a result of the expansion or establishment of the applicable park area; and

(3) Information provided by Native Corporations and other information considered relevant by the Director to the particular facts and circumstances of the effects of the establishment or expansion of the applicable park area.

(c) In the event that more than one Native Corporation is determined to be equally affected within the meaning of this section, each such Native Corporation will be considered as a preferred operator under this subpart.

(d) The Director's most directly affected Native Corporation determination applies to the award of all future visitor service authorizations for the applicable park area. However, a Native Corporation that did not apply for this determination in connection with an earlier visitor services authorization may apply for a determination that it is an equally affected Native Corporation for the applicable park area in connection with a later visitor services authorization. Such subsequent applications must contain the information required by paragraph (a) of this section, and must be made in a timely manner as described by the Director in the applicable solicitation document so as not to delay the consideration of offers for the visitor services authorization.

**§ 13.330 Appeal procedures.**

An appeal of the denial of rights with respect to providing visitor services under this subpart may be made to the next higher level of authority. Such an appeal must be submitted in writing within 30 days of receipt of the denial. Appeals must set forth the facts and circumstances that the appellant believes support the appeal. The appellant may request an informal meeting to discuss the appeal with the National Park Service. After consideration of the materials submitted by the appellant and the National Park Service record of the matter, and meeting with the appellant if so requested, the Director will affirm, reverse, or modify the denial appealed and will set forth in writing the basis of the decision. A copy of the decision will be forwarded to the appellant and will constitute the final administrative decision in the matter. No person will be considered to have exhausted administrative remedies with respect to a denial of rights to provide visitor services under this subpart until a final administrative decision has been made pursuant to this section.

**§ 13.335 Information collection.**

(a) The information collection requirements contained in this part have received emergency approval from the Office of Management and Budget under 44 U.S.C. 3507, *et seq.*, for the basic contracting program under OMB clearance number 1024-0125. The information is being collected as part of the process of reviewing the procedures

and programs of State and local governments participating in the national historic preservation program. The information will be used to evaluate those procedures and programs. The obligation to respond is required to obtain a benefit.

(b) The public reporting burden for the collection of information is estimated to be 480 hours for large operations and 240 hours for small operations, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information, including suggestions for reducing the burden, to Information Collection Officer, National Park Service, 800 North Capitol Street, Washington, DC 20013; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of Interior (1024-0125), Washington, DC 20503.

**Subpart F—Subsistence**

**§ 13.400 Purpose and policy.**

(a) Consistent with the management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each park area was established, designated, or expanded by ANILCA, the purpose of this subpart is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law.

(b) Consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of park areas is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska.

(c) Nonwasteful subsistence uses of fish, wildlife and other renewable resources by local rural residents shall be the priority consumptive uses of such resources over any other consumptive uses permitted within park areas pursuant to applicable State and Federal law.

(d) Whenever it is necessary to restrict the taking of a fish or wildlife population within a park area for subsistence uses in order to assure the continued viability of such population or to continue subsistence uses of such population, the population shall be allocated among local rural residents engaged in subsistence uses in accordance with a subsistence priority system based on the following criteria:

(1) Customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) Local residency; and

(3) Availability of alternative resources.

(e) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within park areas to the extent such regulation is consistent with applicable Federal law, including but not limited to ANILCA.

(f) Nothing in this subpart shall be construed as permitting a level of subsistence use of fish and wildlife within park areas to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife.

#### **§ 13.410 Applicability.**

Subsistence uses by local rural residents are allowed pursuant to the regulations of this subpart in the following park areas:

(a) In national preserves;

(b) In Cape Krusenstern National Monument and Kobuk Valley National Park;

(c) Where such uses are traditional (as may be further designated for each park or monument in the applicable special regulations of this part) in Aniakchak National Monument, Gates of the Arctic National Park, Lake Clark National Park, Wrangell-St. Elias National Park, and the Denali National Park addition.

#### **§ 13.420 Definitions.**

*Local rural resident.* As used in this part with respect to national parks and monuments, the term "local rural resident" shall mean either of the following:

(1) Any person who has his/her primary, permanent home within the resident zone as defined by this section, and whenever absent from this primary, permanent home, has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska Department of Fish and Game, driver's license, and tax returns, and the location of registration to vote.

(2) Any person authorized to engage in subsistence uses in a national park or monument by a subsistence permit issued pursuant to § 13.440.

*Resident zone.* As used in this part, the term "resident zone" shall mean the area within, and the communities and areas near, a national park or monument in which persons who have customarily and traditionally engaged in subsistence

uses within the national park or monument permanently reside. The communities and areas near a national park or monument included as a part of its resident zone shall be determined pursuant to § 13.430 and listed for each national park or monument in the applicable special regulations of this part.

*Subsistence uses.* As used in this part, the term "subsistence uses" shall mean the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handcraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) "Family" shall mean all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "Barter" shall mean the exchange of fish or wildlife or their parts taken for subsistence uses—

(i) For other fish or game or their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) "Customary trade" shall be limited to the exchange of furs for cash (and such other activities as may be designated for a specific park area in the applicable special regulations of this part).

#### **§ 13.430 Determination of resident zones.**

(a) A resident zone shall include—

(1) The area within a national park or monument; and

(2) The communities and areas near a national park or monument which contain significant concentrations of rural residents who, without using aircraft as a means of access for purposes of taking fish or wildlife for subsistence uses (except in extraordinary cases where no reasonable alternative existed), have customarily and traditionally engaged in subsistence uses within a national park or monument. For purposes of determining "significant" concentrations, family members shall also be included.

(b) After notice and comment, including public hearing in the affected local vicinity, a community or area near a national park or monument may be—

(1) Added to a resident zone; or

(2) Deleted from a resident zone, when such community or area does or

does not meet the criteria set forth in paragraph (a) of this section, as appropriate.

(c) For purposes of this section, the term "family" shall mean all persons living within a rural resident's household on a permanent basis.

#### **§ 13.440 Subsistence permits for persons whose primary, permanent home is outside a resident zone.**

(a) Any rural resident whose primary, permanent home is outside the boundaries of a resident zone of a national park or monument may apply to the appropriate Superintendent pursuant to the procedures set forth in § 13.495 for a subsistence permit authorizing the permit applicant to engage in subsistence uses within the national park or monument. The Superintendent shall grant the permit if the permit applicant demonstrates that,

(1) Without using aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses, the applicant has (or is a member of a family which has) customarily and traditionally engaged in subsistence uses within a national park or monument; or

(2) The applicant is a local rural resident within a resident zone for another national park or monument, or meets the requirements of paragraph (a)(1) of this section for another national park or monument, and there exists a pattern of subsistence uses (without use of an aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses) between the national park or monument previously utilized by the permit applicant and the national park or monument for which the permit applicant seeks a subsistence permit.

(b) In order to provide for subsistence uses pending application for and receipt of a subsistence permit, until August 1, 1981, any rural resident whose primary permanent home is outside the boundaries of a resident zone of a national park or monument and who meets the criteria for a subsistence permit set forth in paragraph (a) of this section may engage in subsistence uses in the national park or monument without a permit in accordance with applicable State and Federal law. Effective August 1, 1981, however, such rural resident must have a subsistence permit as required by paragraph (a) of this section in order to engage in subsistence uses in the national park or monument.

(c) For purposes of this section, the term "family" shall mean all persons living within a rural resident's household on a permanent basis.

**§ 13.450 Prohibition of aircraft use.**

(a) Notwithstanding the provisions 43 CFR 36.11(f) the use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish or wildlife for subsistence uses within the national park or monument is prohibited except as provided in this section.

(b) *Exceptions.* (1) In extraordinary cases where no reasonable alternative exists, the Superintendent shall permit, pursuant to specified terms and conditions, a local rural resident of an "exempted community" to use aircraft for access to or from lands and water within a national park or monument for purposes of taking fish or wildlife for subsistence uses.

(i) A community shall qualify as an "exempted community" if, because of the location of the subsistence resources upon which it depends and the extraordinary difficulty of surface access to these subsistence resources, the local rural residents who permanently reside in the community have no reasonable alternative to aircraft use for access to these subsistence resources.

(ii) A community which is determined, after notice and comment (including public hearing in the affected local vicinity), to meet the description of an "exempted community" set forth in paragraph (b)(1) of this section shall be included in the appropriate special regulations for each park and monument in this part.

(iii) A community included as an "exempted community" in the special regulations of this part may be deleted therefrom upon a determination, after notice and comment (including public hearing in the affected local vicinity), that it does not meet the description of an "exempted community" set forth in paragraph (b)(1) of this section.

(2) Any local rural resident aggrieved by the prohibition on aircraft use set forth in this section may apply for an exception to the prohibition pursuant to the procedures set forth in § 13.495. In extraordinary cases where no reasonable alternative exists, the Superintendent may grant the exception upon a determination that the location of the subsistence resources depended upon and the difficulty of surface access to these resources, or other emergency situation, requires such relief.

(c) Nothing in this section shall prohibit the use of aircraft for access to lands and waters within a national park or monument for purposes of engaging in any activity allowed by law other than the taking of fish and wildlife. Such activities include, but are not limited to, transporting supplies.

**§ 13.460 Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.**

(a) Notwithstanding any other provision of this chapter, the use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within park areas except at those times and in those areas restricted or closed by the Superintendent.

(b) The Superintendent may restrict or close a route or area to use of snowmobiles, motorboats, dog teams, or other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses if the Superintendent determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or the purposes for which the park area was established.

(c) No restrictions or closures shall be imposed without notice and a public hearing in the affected vicinity and other locations as appropriate. In the case of emergency situations, restrictions or closures shall not exceed sixty (60) days and shall not be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such extension is justified according to the factors set forth in paragraph (b) of this section. Notice of the proposed or emergency restrictions or closures and the reasons therefore shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if appropriate, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions and closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(d) Motorboats, snowmobiles, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated:

(1) In compliance with applicable State and Federal law;

(2) In such a manner as to prevent waste or damage to the park areas; and

(3) In such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

(e) At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, dog teams, and other means of surface transportation in accordance with 43 CFR 36.11(c), (d), (e), and (g).

**§ 13.470 Subsistence fishing.**

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law, including the provisions of §§ 2.3 and 13.40 of this chapter: *Provided, however,* That local rural residents in park areas where subsistence uses are allowed may fish with a net, seine, trap, or spear where permitted by State law. To the extent consistent with the provisions of this chapter, applicable State laws and regulations governing the taking of fish which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

**§ 13.480 Subsistence hunting and trapping.**

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law. To the extent consistent with the provisions of this chapter, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

**§ 13.485 Subsistence use of timber and plant material.**

(a) Notwithstanding any other provision of this part, the non-commercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in park areas where subsistence uses are allowed as follows:

(1) For live standing timber of diameter greater than three inches at ground height, the Superintendent may permit cutting in accordance with the specifications of a permit if such cutting is determined to be compatible with the purposes for which the park area was established;

(2) For live standing timber of diameter less than three inches at ground height, cutting is permitted unless restricted by the Superintendent.

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit in park areas where subsistence uses are allowed.

(c) Notwithstanding any other provision of this part, the Superintendent, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular plant population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For the purposes of this section, the term "temporarily" shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(1) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular plant population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(2) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions, or both.

**§ 13.490 Closure to subsistence uses of fish and wildlife.**

(a) Notwithstanding any other provision of this part, the Superintendent, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may

temporarily close all or any portion of a park area to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term "temporarily" shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(b) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(c) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions, or both.

**§ 13.495 Application procedures for subsistence permits and aircraft exceptions.**

(a) Any person applying for the subsistence permit required by § 13.440(a), or the exception to the prohibition on aircraft use provided by § 13.450(b)(2), shall submit his/her application to the Superintendent of the appropriate national park or monument. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application. Each application must include a statement which acknowledges that providing false information in support

of the application is a violation of Section 1001 of Title 18 of the United States Code, and additional statements or documentation which demonstrates that the applicant satisfies the criteria set forth in § 13.440(a) for a subsistence permit or § 13.450(b)(2) for the aircraft exception, as appropriate. Except in extraordinary cases for good cause shown, the Superintendent shall decide whether to grant or deny the application in a timely manner not to exceed forty-five (45) days following the receipt of the completed application. Should the Superintendent deny the application, he/she shall include in the decision a statement of the reasons for the denial and shall promptly forward a copy to the applicant.

(b) An applicant whose application has been denied by the Superintendent has the right to have his/her application reconsidered by the Alaska Regional Director by contacting the Regional Director within 180 days of the issuance of the denial. The Regional Director may extend the 180-day time limit to initiate a reconsideration for good cause shown by the applicant. For purposes of reconsideration, the applicant shall present the following information:

(1) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in paragraph (a) of this section;

(2) The basis for the applicant's disagreement with the Superintendent's findings and conclusions; and

(3) Whether or not the applicant requests an informal hearing before the Regional Director.

(c) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

**Subpart G [Reserved]**

**Subpart H—Special Regulations—Alagnak Wild River [Reserved]**

**Subpart I—Special Regulations—Aniakchak National Monument and Preserve**

**§ 13.602 Subsistence resident zone.**

The following communities and areas are included within the resident zone for Aniakchak National Monument:

Chignik, Chignik Lagoon, Chignik Lake, Meshik, and Port Heiden.

**§ 13.604 Wildlife distance conditions.**

(a) Approaching a bear or any large mammal within 50 yards is prohibited.

(b) Continuing to occupy a position within 50 yards of a bear that is using a concentrated food source, including, but not limited to, animal carcasses, spawning salmon, and other feeding areas is prohibited.

(c) The prohibitions do not apply to persons—

- (1) Engaged in a legal hunt;
- (2) On a designated bear viewing structure;
- (3) In compliance with a written protocol approved by the Superintendent; or
- (4) Who are otherwise directed by a park employee.

**Subpart J—Special Regulations—Bering Land Bridge National Preserve**

**§ 13.702 Off-Road Vehicles.**

The use of off-road vehicles for purposes of reindeer grazing may be permitted in accordance with a permit issued by the Superintendent.

**Subpart K—Special Regulations—Cape Krusenstern National Monument**

**§ 13.802 Subsistence resident zone.**

The following area is included within the resident zone for Cape Krusenstern National Monument: The NANA Region.

**Subpart L—Special Regulations—Denali National Park and Preserve**

**General Provisions**

**§ 13.902 Subsistence resident zone.**

The following communities and areas are included within the resident zone for Denali National Park addition: Cantwell, Minchumina, Nikolai, and Telida.

**§ 13.904 Camping.**

Camping is allowed in accordance with the backcountry management plan.

**§ 13.906 Unattended or abandoned property.**

Leaving unattended and abandoned property along the road corridor, at Wonder Lake, and in the areas included in the backcountry management plan, is prohibited.

**§ 13.908 Fishing limit of catch and in possession.**

The limit of catch per person per day shall be 10 fish but not to exceed 10 pounds and one fish, except that the limit of catch of lake trout (mackinaw)

per person per day shall be two fish including those hooked and released. Possession of more than one day's limit of catch by one person at any one time is prohibited.

**§ 13.910 Mountain climbing.**

Climbing on Mount McKinley or Mount Foraker without registering, on a form provided by the Superintendent, at least 60 days in advance of any climb is prohibited.

**§ 13.912 Kantishna area summer season firearm safety zone.**

What is prohibited? No one may fire a gun during the summer season in or across the Kantishna area firearm safety zone, unless they are defending life or property.

(a) The summer season begins on the Saturday of Memorial Day weekend and continues through the second Thursday following Labor Day or September 15, whichever comes first.

(b) The Kantishna Area firearm safety zone includes: The Kantishna Airstrip; the State Omnibus Act Road right-of-way; and all public lands located within one mile of the Kantishna Airstrip or the State Omnibus Act Road right-of-way, from the former Mt. McKinley National Park boundary at mile 87.9 to the south end of the Kantishna Airstrip.

**§ 13.914 Bicycle use.**

The use of a bicycle is prohibited—

(a) On the Savage River Loop Trail; the Savage Cabin Trail; the Triple Lakes Trail; the McKinley Bar Trail; and the Eielson Area Trails; and

(b) Within the Frontcountry Developed Area as defined by § 13.970 except on park roads, road shoulders, and in public parking areas, or on trails and areas designated for bicycle use by the Superintendent. A map of the designated trails and areas open to bicycle use is available for inspection at the park visitor center and on the park Web site.

**§ 13.916 Use of roller skates, skateboards, roller skis, in-line skates, and similar devices.**

The use of roller skates, skateboards, roller skis, in-line skates, and similar devices is prohibited—

(a) On the Savage River Loop Trail; the Savage Cabin Trail; the Triple Lakes Trail; the McKinley Bar Trail; and the Eielson Area Trails; and

(b) Within the Frontcountry Developed Area as defined by § 13.970 except on trails and areas designated by the Superintendent. A map of the designated trails and areas is available for inspection at the park visitor center and on the park Web site.

**Motor Vehicle Permits**

**§ 13.930 Do I need a permit to operate a motor vehicle on the Denali Park road west of the Savage River?**

Yes, you must obtain a permit from the superintendent to operate a motor vehicle on the restricted section of the Denali Park road. The restricted section begins at the west end of the Savage River Bridge (mile 14.8) and continues to the former Mt. McKinley National Park boundary north of Wonder Lake (mile 87.9).

**§ 13.932 How many permits will be issued each summer?**

The superintendent is authorized, under this subpart, to issue no more than 10,512 motor vehicle permits each year for access to the restricted section of the road. The superintendent will issue the permits for the period that begins on the Saturday of Memorial Day weekend and continues through the second Thursday following Labor Day or September 15, whichever comes first. Each permit allows one vehicle one entry onto the restricted portion of the Park road.

**§ 13.934 How will the superintendent manage the permit program?**

(a) The superintendent will apportion motor vehicle permits among authorized users following the procedures in § 13.55. Authorized users are individuals, groups and governmental entities who are allowed by law or policy to use the restricted section of the road.

(b) The superintendent will establish an annual date to evaluate permit requests and publish that date, along with the results of the annual apportionment, in the superintendent's compendium of rules and orders. The superintendent's compendium is available to the public upon request.

(c) The superintendent will reevaluate the access requirements of any business that is sold, ceases to operate or that significantly changes the services currently offered to the public.

**§ 13.936 What is prohibited?**

(a) No one may operate a motor vehicle on the restricted section of the Park road without a valid permit.

(b) No one may use a motor home, camper or trailer to transport guests to a lodge or other business in Kantishna.

(c) No one may transfer or accept transfer of a Denali Park road permit without the superintendent's approval.

## Snowmachine (Snowmobile) Operations

### § 13.950 What is the definition of a traditional activity for which Section 1110(a) of ANILCA permits snowmachines to be used in the former Mt. McKinley National Park (Old Park) portion of Denali National Park and Preserve?

A *traditional activity* is an activity that generally and lawfully occurred in the Old Park contemporaneously with the enactment of ANILCA, and that was associated with the Old Park, or a discrete portion thereof, involving the consumptive use of one or more natural resources of the Old Park such as hunting, trapping, fishing, berry picking or similar activities. Recreational use of snowmachines was not a traditional activity. If a traditional activity generally occurred only in a particular area of the Old Park, it would be considered a traditional activity only in the area where it had previously occurred. In addition, a traditional activity must be a legally permissible activity in the Old Park.

### § 13.952 May a snowmachine be used in that portion of the park formerly known as Mt. McKinley National Park (Old Park)?

No, based on the application of the definition of traditional activities within the park to the factual history of the Old Park, there are no traditional activities that occurred during periods of adequate snow cover within the Old Park; and, thus, Section 1110(a) of ANILCA does not authorize snowmachine access. Hunting and trapping were not and are not legally permitted activities in the Old Park at any time of the year. Sport fishing has not taken place in the Old Park during periods of adequate snow cover due to weather conditions that are adverse to sport fishing, and the limited fishery resources within the Old Park. During periods of adequate snow cover, berry picking is not feasible, and has not taken place in the Old Park. Under the definition, recreational use of snowmachines is not a traditional activity. There are no villages, homesites or other valid occupancies within the Old Park. Access by snowmachine through the Old Park in transit to homesites, villages and other valid occupancies was not lawful prior to the enactment of ANILCA and is available through routes outside the Old Park that have been historically used for that purpose. Therefore, the use of snowmachines is not authorized by section 1110(a) for such travel. Further, Congress did not authorize subsistence activities in the Old Park. In addition, the National Park Service has determined that the use of even a few

snowmachines in the Old Park would be detrimental to the resource values of the area. Therefore, because no usage is authorized in the Old Park by section 1110(a) the Old Park remains closed to all snowmachine use in accordance with 36 CFR 2.18.

### § 13.954 Where can I operate a snowmachine in Denali National Park and Preserve?

You can use a snowmachine outside of the Old Park for traditional activities or travel to and from villages and homesites and other valid occupancies as authorized by 43 CFR 36.11(c), or when lawfully engaged in subsistence activities authorized by § 13.460.

### § 13.956 What types of snowmachines are allowed?

The types of snowmachines allowed are defined in § 13.1 under "snowmachine or snowmobile".

### § 13.958 What other regulations apply to snowmachine use?

Snowmachine use is governed by regulations at § 2.18(a) of this chapter, traffic safety, § 2.18(b) of this chapter, state laws, and § 2.18(d) and (e) of this chapter, prohibited activities; and 43 CFR 36.11(a)(2) adequate snow cover, and 43 CFR 36.11(c) traditional activities.

### § 13.960 Who determines when there is adequate snow cover?

The superintendent will determine when snow cover is adequate for snowmachine use. The superintendent will follow the procedures in §§ 1.5 and 1.7 of this chapter to inform the public.

### § 13.962 Does the Superintendent have other regulatory authority?

Nothing in this subpart shall limit the authority of the superintendent to restrict or limit uses of an area under other statutory authority.

## Frontcountry Developed Area (FDA)

### § 13.970 Frontcountry Developed Area definition.

For purposes of this subpart, the Frontcountry Developed Area (FDA) means all park areas within the portion of the park formerly known as Mt. McKinley National Park (Old Park) not designated as Wilderness by Congress. A map showing the FDA is available at the park visitor center.

### § 13.972 Camping from April 15 through September 30.

(a) Camping is prohibited in the FDA except in designated campgrounds in accordance with the terms and conditions of a permit. Violation of permit terms and conditions is prohibited.

(b) Camping in designated campgrounds in the FDA for more than a total of 14 days, either in a single period or combined periods, is prohibited.

### § 13.974 Camping from October 1 through April 14.

(a) Camping is prohibited in the FDA except in designated campgrounds and the designated area where the park road is closed to motor vehicle use. A map showing the designated area is available at the park visitor center and on the park Web site.

(b) Camping in the FDA without a permit is prohibited. Violation of permit terms and conditions is prohibited.

(c) Camping in the FDA for more than a total of 30 days, either in a single period or combined periods, is prohibited.

### § 13.976 Fire.

Lighting or maintaining a fire is prohibited in the FDA except—

(a) In established receptacles within designated campgrounds;

(b) From October 1 through April 14 in that portion of the FDA where the park road is closed to motor vehicle use; and

(c) Under conditions that may be established by the Superintendent.

### § 13.978 Pets.

Possessing a pet is prohibited—

(a) In the FDA, except in public parking areas, on or immediately adjacent to park roads, or in designated campgrounds;

(b) Within 150 feet of the park sled dog kennels; and

(c) Within 150 feet of the park water system intake facilities.

### § 13.980 Other FDA closures and restrictions.

The Superintendent may prohibit or otherwise restrict activities in the FDA to protect public health, safety, or park resources. Information on FDA closures and restrictions will be available for inspection at the park visitor center and on the park Web site. Violating FDA closures or restrictions is prohibited.

## Subpart M—Special Regulations—Gates of the Arctic National Park and Preserve

### § 13.1002 Subsistence resident zone.

The following communities and areas are included within the resident zone for Gates of the Arctic National Park: Alatna, Allakaket, Ambler, Anaktuvuk Pass, Bettles/Evansville, Hughes, Kobuk, Nuiqsut, Shungnak, and Wiseman.

**§ 13.1004 Aircraft use.**

In extraordinary cases where no reasonable alternative exists, local rural residents who permanently reside in the following exempted community(ies) may use aircraft for access to lands and waters within the park for subsistence purposes in accordance with a permit issued by the Superintendent: Anaktuvuk Pass.

**§ 13.1006 Customary trade.**

In the Gates of the Arctic National Preserve unit which contains the Kobuk River and its tributaries, "customary trade" shall include—in addition to the exchange of furs for cash—the selling of handicraft articles made from plant material taken by local rural residents of the park area.

**Subpart N—Special Regulations—  
Glacier Bay National Park and Preserve****Administrative Provisions****§ 13.1102 Definitions.**

As used in this subpart:

*Bartlett Cove Developed Area* means all NPS-administered lands and waters within 1 mile of any Bartlett Cove facility. A map showing the Bartlett Cove Developed Area is available at the park visitor center.

*Charter vessel* means any motor vessel under 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) engaged in transport of passengers for hire and certified to carry no more than 12 passengers overnight and no more than 49 passengers for daytime use. Charter vessels also include any uninspected motor vessel measuring less than 200 tons gross (U.S. Tonnage "Simplified Measurement System") and not more than 24 meters (79 feet) in length engaged in transport of passengers for hire.

*Commercial fishing* means conducting fishing activities under the appropriate commercial fishing permits and licenses as required and defined by the State of Alaska.

*Commercial fishing vessel* means any motor vessel conducting fishing activities under the appropriate commercial fishing licenses as authorized under this subpart.

*Cruise ship* means any motor vessel of at least 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) certificated to carry more than 12 passengers for hire.

*Daily vessel quota* means the maximum number of vessels allowed, by vessel category, on any one calendar day.

*Glacier Bay* means all waters inside a line drawn between Point Gustavus at 135°54.927' W longitude; 58°22.748' N latitude and Point Carolus at 136°2.535' W longitude; 58°22.694' N latitude.

*Motor vessel* means any vessel, other than a seaplane, propelled or capable of being propelled by machinery (including steam), whether or not such machinery is the principal source of power, except a skiff or tender under tow or carried on board another vessel.

*Outer waters* means all of the non-wilderness marine waters of the park located outside of Glacier Bay.

*Passenger ferry* means a motor vessel authorized by the Superintendent to engage in the transport of passengers for hire to Bartlett Cove.

*Private vessel* means any motor vessel that is not engaged in business (business includes, but is not limited to, transportation of passengers for hire or commercial fishing).

*Seasonal vessel quota* means the maximum number of vessels allowed, by vessel category, during a specific seasonal period.

*Speed through the water* means the speed at which a vessel moves through the water (which itself may be moving); as distinguished from "speed over the ground" (speed measured in relation to a fixed point on the earth).

*Tour vessel* means any motor vessel of less than 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) engaged in transport of passengers for hire and certificated to carry more than 12 passengers overnight or more than 49 passengers for daytime use.

*Transit* means to operate a motor vessel under power and continuously so as to accomplish ½ nautical mile of littoral (i.e., along the shore) travel.

*Vessel* includes every type or description of craft used as a means of transportation on the water, including a buoyant device permitting or capable of free flotation and a seaplane while operating on the water.

*Whale* means any humpback whale (*Megaptera novaeangliae*).

*Whale waters* means any portion of Glacier Bay, designated by the superintendent, having a high probability of whale occupancy, based upon recent sighting and/or past patterns of occurrence.

**§ 13.1104 Coordinates.**

All coordinates referenced in this subpart use horizontal datum World Geodetic System of 1984 (WGS 84).

**General Provisions****§ 13.1110 May I collect or burn interstadial wood?**

Collecting or burning interstadial wood (aged wood preserved in glacial deposits) is prohibited.

**§ 13.1112 May I collect rocks and minerals?**

Collecting rocks and minerals in the former Glacier Bay National Monument is prohibited.

**§ 13.1114 May I collect goat hair?**

The collection of naturally shed goat hair is authorized in accordance with terms and conditions established by the Superintendent. Violating terms and conditions for collecting goat hair is prohibited.

**§ 13.1116 Do I need a camping permit in Glacier Bay?**

From May 1 through September 30, camping within Glacier Bay as defined by this subpart up to ¼ nautical mile (1519 feet) above the line of mean high tide without a camping permit is prohibited. The Superintendent may establish permit terms and conditions. Failure to comply with permit terms and conditions is prohibited.

**Bartlett Cove****§ 13.1120 Bartlett Cove Developed Area closures and restrictions.**

The Superintendent may prohibit or otherwise restrict activities in the Bartlett Cove Developed Area to protect public health, safety, or park resources, or to provide for the equitable and orderly use of park facilities. Information on closures and restrictions will be available at the park visitor information center. Violating Bartlett Cove Developed Area closures or restrictions is prohibited.

**§ 13.1122 Bartlett Cove Public Use Dock.**

(a) Docking, tying down, or securing aircraft is prohibited except at the designated aircraft float at the Bartlett Cove Public Use Dock. Docking, tying down, or securing aircraft to the Bartlett Cove Public Use Dock for longer than 3 hours in a 24-hour period is prohibited. Pilots must remain with the aircraft or provide notice of their location to a park ranger. Failure to remain with the aircraft or provide notice to a park ranger is prohibited.

(b) Vehicles exceeding 30,000 pounds gross vehicle weight are prohibited on the dock, unless authorized by the Superintendent.

(c) Leaving personal property (other than vessels) unattended on, or attached to, the floats or pier without prior

permission from the Superintendent is prohibited.

(d) Processing commercially caught fish on the Public Use Dock is prohibited.

(e) The Superintendent may authorize the buying or selling of fish or fish products on or at the Public Use Dock. Buying or selling of fish or fish products is prohibited on or at the Public Use Dock without written permission from the Superintendent.

(f) Utilizing the fuel dock for activities other than fueling and waste pump-out is prohibited. Other uses may be authorized by the Superintendent to protect park resources or public safety.

(g) Leaving a vessel unattended on the fuel dock for any length of time is prohibited.

(h) Using electrical shore power for vessels is prohibited unless otherwise authorized by the Superintendent.

#### **§ 13.1124 Bartlett Cove Campground.**

(a) Camping is prohibited in the Bartlett Cove Developed Area except in the Bartlett Cove Campground. From May 1 through September 30, all overnight campers must register to camp in the Bartlett Cove Campground. Failure to register is prohibited.

(b) Cooking, consuming, or preparing food in the Bartlett Cove Campground is prohibited except in designated areas.

(c) *Food storage.* In the Bartlett Cove Developed Area, storing food in any manner except in a sealed motor vehicle, a vessel (excluding kayaks), a building, an approved bear-resistant food container, a bear-resistant trash receptacle, or a designated food cache is prohibited.

#### **§ 13.1126 Bicycles.**

Use of a bicycle is prohibited on the Forest Loop, Bartlett River and Bartlett Lake trails.

#### **§ 13.1128 Is a permit required to transport passengers between Bartlett Cove and Gustavus?**

Commercial transport of passengers between Bartlett Cove and Gustavus by motor vehicles legally licensed to carry 15 or fewer passengers is allowed without a permit. However, if required to protect public health and safety or park resources, or to provide for the equitable use of park facilities, the Superintendent may establish a permit requirement with appropriate terms and conditions for the transport of passengers. Failure to comply with permit terms and conditions is prohibited.

### **Commercial Fishing**

#### **§ 13.1130 Is commercial fishing authorized in the marine waters of Glacier Bay National Park?**

Yes—Commercial fishing is authorized within the outer waters of the park and within the non-wilderness waters of Glacier Bay, subject to the provisions of this chapter.

(a) Commercial fishing shall be administered pursuant to a cooperatively developed State/federal park fisheries management plan, international conservation and management treaties, and existing federal and non-conflicting State law. The management plan shall provide for the protection of park values and purposes, the prohibition on any new or expanded fisheries, and the opportunity to study marine resources.

(b) Commercial fishing or conducting an associated buying or processing operation in wilderness waters is prohibited.

(c) A new or expanded fishery is prohibited. The Superintendent shall compile a list of the existing fisheries and gear types used in the outer waters and follow the procedures in §§ 1.5 and 1.7 of this chapter to inform the public.

(d) Maps and charts showing which marine areas of Glacier Bay are closed to commercial fishing are available from the Superintendent.

#### **§ 13.1132 What types of commercial fishing are authorized in Glacier Bay?**

Three types of commercial fishing are authorized in Glacier Bay non-wilderness waters: Longline fishing for halibut; pot and ring fishing for Tanner crab; and trolling for salmon.

(a) All other commercial fishing, or a buying or a processing operation not related to an authorized fishery is prohibited in Glacier Bay.

(b) On October 1, 2000, each fishery will be limited to fishermen who qualify for a non-transferable commercial fishing lifetime access permit (see § 13.1134). Commercial fishing without a permit issued by the superintendent, or other than in accordance with the terms and conditions of the permit, is prohibited.

(c) The Superintendent shall include in a permit the terms and conditions that the superintendent deems necessary to protect park resources. Violating a term or condition of the permit is prohibited.

#### **§ 13.1134 Who is eligible for a Glacier Bay commercial fishing lifetime access permit?**

A Glacier Bay commercial fishing lifetime access permit will be issued by the superintendent to fishermen who have submitted documentation to the

superintendent, on or before October 1, 2000, which demonstrates to the satisfaction of the superintendent that:

(a) They possess valid State limited entry commercial fishing permits for the district or statistical area encompassing Glacier Bay for each fishery for which a lifetime access permit is being sought; and,

(b) They have participated as a limited entry permit holder or crewmember in the district or statistical area encompassing Glacier Bay for each fishery for which a lifetime access permit is being sought.

(1) For the Glacier Bay commercial halibut fishery, the applicant must have participated as a permit holder or crewmember for at least 2 years during the period 1992–1998.

(2) For the Glacier Bay salmon or Tanner crab commercial fisheries, the applicant must have participated as a permit holder or crewmember for at least 3 years during the period 1989–1998.

#### **§ 13.1136 How can an individual apply for a commercial fishing lifetime access permit?**

An applicant for a lifetime access permit must provide information sufficient to establish eligibility as follows:

(a) The applicant's full name, date of birth, mailing address and phone number;

(b) A notarized affidavit (required), sworn by the applicant, attesting to his or her history of participation as a limited entry permit holder or crewmember in Glacier Bay during the qualifying period for each fishery for which a lifetime access permit is being sought;

(c) A copy of the applicant's current State of Alaska limited entry permit or, in the case of halibut, an international Pacific Halibut Commission quota share (required), that is valid for the area that includes Glacier Bay, for each fishery for which a lifetime access permit is sought;

(d) For qualifying years as a limited entry permit holder, available corroborating documentation of the applicant's permit and quota share history for the Glacier Bay fishery during the qualifying period, and/or for qualifying years as a crewmember, other available corroborating documentation of crewmember status. This may include a copy of the applicant's commercial crewmember license for each qualifying year, a notarized affidavit from their employer (generally a limited entry permit holder, or boat owner hired or contracted by a limited entry permit holder) stating the years worked by the

applicant in a qualifying fishery in Glacier Bay, copies of tax forms W-2 or 1099, pay stubs, or other documentation; and

(e) For applicants qualifying as a limited entry permit holder, available corroborating documentation of commercial landings for the Glacier Bay fishery during the qualifying periods—i.e., within the statistical unit or area that includes Glacier Bay. For halibut, this includes regulatory sub-area 184. For Tanner crab, this includes statistical areas 114-70 through 114-77. For salmon, the Superintendent may need additional documentation that supports the applicant's declaration of Glacier Bay salmon landings. For halibut and Tanner crab, the Superintendent may consider documented commercial landings from the unit or area immediately adjacent to Glacier Bay (in Icy Strait) if additional documentation supports the applicant's declaration that landings occurred in Glacier Bay.

(f) Any additional corroborating documentation that might assist the superintendent in a timely determination of eligibility for the access permits.

**§ 13.1138 Where should the documentation for a lifetime access permit be sent?**

Before October 1, 2000, all required information (as listed in § 13.1136) should be sent to: Superintendent, Attn: Access Permit Program, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826.

**§ 13.1140 Who determines eligibility?**

The superintendent will make a written determination of an applicant's eligibility for the lifetime access permit based on information provided. A copy of the determination will be mailed to the applicant. If additional information is required to make an eligibility determination, the applicant will be notified in writing of that need and be given an opportunity to provide it.

**§ 13.1142 Can I appeal denial of my commercial fishing lifetime access permit application?**

Yes—If an applicant's request for a commercial fishing lifetime access permit is denied, the superintendent will provide the applicant with the reasons for the denial in writing within 15 days of the decision. The applicant may appeal to the Regional Director, Alaska Region, within 180 days. The appeal must substantiate the basis of the applicant's disagreement with the Superintendent's determination. The Regional Director (or his representative) will meet with the applicant to discuss the appeal within 30 days of receiving

the appeal. Within 15 days of receipt of written materials and the meeting, if requested, the Regional Director will affirm, reverse, or modify the Superintendent's determination and explain the reasons for the decision in writing. A copy of the decision will be forwarded promptly to the applicant and will be the final agency action.

**§ 13.1144 How often will commercial fishing lifetime access permit be renewed?**

The superintendent will renew lifetime access permit at 5-year intervals for the lifetime of a permittee who continues to hold a valid State limited entry commercial fishing permit, and for halibut an International Pacific Halibut Commission quota share, and is otherwise eligible to participate in the fishery under Federal and State law.

**§ 13.1146 What other closures and restrictions apply to commercial fishermen and commercial fishing vessels?**

The following are prohibited:

(a) Commercial fishing in the waters of Geikie, Tarr, Johns Hopkins and Reid Inlets.

(b) Commercial fishing in the waters of the west arm of Glacier Bay north of 58° 50.0' N latitude, except commercial fishermen who have been authorized by the superintendent to troll for salmon may troll for king salmon during the period October 1 through April 30, in compliance with state commercial fishing regulations.

(c) Commercial fishing in the east arm of Glacier Bay, north of an imaginary line running from Point Caroline through the southern point of Garforth Island and extending to the east side of Muir Inlet, except commercial fishermen who have been authorized by the superintendent to troll for salmon may troll for king salmon south of 58° 50.0' N latitude during the period October 1 through April 30, in compliance with state commercial fishing regulations.

**Vessel Permits**

**§ 13.1150 Is a permit required for a vessel in Glacier Bay?**

A permit from the superintendent is required for motor vessels in accordance with this subpart and applicable regulations in this part.

**§ 13.1152 Private vessel permits and conditions.**

In Glacier Bay from June 1 through August 31 an individual must have a permit from the NPS issued for a specific vessel for a specific period of time.

(a) From June 1 through August 31, when the operator of a private vessel

enters Glacier Bay for the first time that calendar year, the operator must go directly to the Bartlett Cove Ranger Station for orientation.

(b) From May 1 through September 30, the operator of a private vessel must immediately notify the Bartlett Cove Ranger Station of the vessel's entry to or exit from Glacier Bay.

**§ 13.1154 Commercial vessel permits and conditions.**

Each commercially operated motor vessel must have a permit to operate in Glacier Bay National Park and Preserve in accordance with § 5.3 of this chapter.

(a) A cruise ship must have a concession contract to operate in Glacier Bay.

(b) A tour vessel, charter vessel, and passenger ferry must have a commercial authorization to operate in Glacier Bay.

(c) The operator of a cruise ship, tour vessel, charter vessel, and passenger ferry must notify the Bartlett Cove Ranger Station of the vessel's entry into Glacier Bay within 48 hours in advance of entering Glacier Bay or immediately upon entry.

(d) Cruise ships and tour vessels are prohibited from operating in the Beardslee Entrance and at the entrance to Adams Inlet, as defined as waters within the Wilderness boundaries in those respective areas.

(e) Off-boat activity from a cruise ship, tour vessel, or charter vessel is prohibited, unless authorized by the superintendent.

(f) Off-boat activity from a passenger ferry is prohibited, except for passenger access at the Bartlett Cove docks.

(g) A passenger ferry must travel a direct course between the mouth of Glacier Bay and Bartlett Cove, except when the vessel is granted safe harbor by the Superintendent as stated in § 13.1156(e).

**§ 13.1156 Exceptions from vessel permit requirement.**

A vessel permit is not required in Glacier Bay when:

(a) A motor vessel is engaged in official, non-commercial business of the State or Federal Government;

(b) A motor vessel is operating in Bartlett Cove waters east of a line extending from the long axis of the fuel dock to the wilderness boundary of Lester Island;

(c) One motor vessel is launched from a motor vessel that has a permit and only while the authorized motor vessel remains at anchor or operated in accordance with a concession agreement from a permitted motor vessel while that vessel is not underway;

(d) A commercial fishing vessel authorized under this subpart is actually engaged in commercial fishing; or  
 (e) A vessel is granted safe harbor by the superintendent.

**§ 13.1158 Prohibitions.**

(a) Operating a motor vessel in Glacier Bay without a required permit is prohibited.

(b) Violating a term or condition of a permit or an operating condition or restriction issued or imposed pursuant to this chapter is prohibited.

(c) The superintendent may immediately suspend or revoke a permit or deny a future permit request as a result of a violation of a provision of this chapter.

**§ 13.1160 Restrictions on vessel entry.**

The superintendent will allow vessel entry in accordance with the following table:

Type of vessel	Daily vessel quotas (DVQ)	Period covered by DVQ	Seasonal vessel quota (SVQ)	Period covered by SVQ
Cruise ship .....	2	Year-round .....	Up to 184 .....	June 1–August 31.
Tour vessel .....	3	Year-round .....	Up to 122 .....	May and September.
Charter vessel .....	6	Jun 1–Aug 31 .....	N/A .....	N/A.
Private vessel .....	25	Jun 1–Aug 31 .....	N/A .....	N/A.
Passenger ferry .....	1	Year-round .....	N/A .....	N/A.

**Note:** Cruise ships and tour vessels are limited to the daily vessel quota year-round. Charter and private vessels are not subject to quotas from September through May.

(a) The Director will reduce the vessel quota levels for any or all categories of vessels in this subpart as required to protect the values and purposes of Glacier Bay National Park and Preserve. The director will make these reductions based on the controlling biological opinion issued by the National Oceanic and Atmospheric Administration Fisheries Service under section 7 of the Endangered Species Act, applicable authority, and any other relevant information.

(b) The superintendent will annually determine the cruise ship quota. This determination will be based upon applicable authorities, appropriate public comment and available scientific and other information. The number will be subject to the maximum daily vessel quota of two vessels.

(c) From June 1 through August 31, the superintendent will designate one private vessel permit from the daily quota of 25 as a transit permit. This transit permit may be used only to directly exit Glacier Bay from Bartlett Cove and return directly to Bartlett Cove. The superintendent may establish application procedures and operating conditions. Violating operating conditions is prohibited. This paragraph will cease to have effect on November 30, 2011.

(d) Nothing in this section will be construed to prevent the superintendent from taking any action at any time to protect the values and purposes of Glacier Bay National Park and Preserve.

**Vessel Operating Restrictions**

**§ 13.1170 What are the rules for operating vessels?**

(a) Operating a vessel within 1/4 nautical mile of a whale is prohibited, except for a commercial fishing vessel authorized under this subpart that is actively trolling, setting, or pulling long lines, or setting or pulling crab pots.

(b) The operator of a vessel inadvertently positioned within 1/4 nautical mile of a whale must immediately slow the vessel to ten knots or less, without shifting into reverse unless impact is likely. The operator must direct or maintain the vessel on as steady a course as possible away from the whale until at least 1/4 nautical mile of separation is established. Failure to take such action is prohibited.

(c) The operator of a vessel or seaplane positioned within 1/2 nautical mile of a whale is prohibited from altering course or speed in a manner that results in decreasing the distance between the whale and the vessel or seaplane.

**§ 13.1172 When general operating restrictions do not apply.**

Section 13.1170 does not apply to a vessel being used in connection with federally permitted whale research or monitoring; other closures and restrictions in “Vessel Operating Restrictions,” §§ 13.1170 through 13.1180, do not apply to authorized persons conducting emergency or law enforcement operations, research or resource management, park administration/supply, or other necessary patrols.

**§ 13.1174 Whale water restrictions.**

(a) May 15 through September 30, the following waters are designated as whale waters.

(1) Waters north of a line drawn from Point Carolus to Point Gustavus; and south of a line drawn from the northernmost point of Lars Island across the northernmost point of Strawberry Island to the point where it intersects the line that defines the Beardslee Island group, as described in § 13.1180(a)(4), and following that line south and west to the Bartlett Cove shore (so as to include the Beardslee Entrance and Bartlett Cove); and

(2) Other waters designated by the superintendent as temporary whale waters.

(b) The public will be notified of other waters designated as temporary whale waters in accordance with § 1.7 of this chapter.

(c) Violation of a whale water restriction is prohibited. The following restrictions apply in whale waters unless otherwise provided by the superintendent in the designation:

(1) Operating a motor vessel less than one nautical mile from shore (where the width of the water permits), or in narrower areas navigating outside of mid-channel is prohibited. This restriction does not apply to motor vessels less than 18 feet in length, or vessels actively engaged in fishing activities or operating solely under sail.

(2) Unless other restrictions apply, operators may perpendicularly approach or land on shore (i.e., by the most direct line to shore) through designated whale waters, but they may not transit along the shore.

(3) Operators must follow motor vessel speed limits in § 13.1176(a).

**§ 13.1176 Speed restrictions.**

(a) From May 15 through September 30, in designated whale waters the following are prohibited:

(1) Operating a motor vessel at more than 20 knots speed through the water; or

(2) Operating a motor vessel at more than 13 knots speed through the water, when the superintendent has designated a maximum speed of 13 knots, or at a maximum speed designated by the superintendent based on NOAA guidelines or new scientific information.

(b) From July 1 through August 31, operating a motor vessel on Johns Hopkins Inlet waters south of 58°54.2' N latitude (a line running due west from Jaw Point) at more than 10 knots speed through the water is prohibited.

**§ 13.1178 Closed waters, islands and other areas.**

The following are prohibited:

(a) Operating a vessel or otherwise approaching within 100 yards of South Marble Island; or Flapjack Island; or any of the three small unnamed islets approximately one nautical mile southeast of Flapjack Island; or Eider Island; or Boulder Island; or Geikie Rock; or Lone Island; or the northern three-fourths of Leland Island (north of 58°39.1' N latitude); or any of the four small unnamed islands located approximately one nautical mile north (one island), and 1.5 nautical miles east (three islands) of the easternmost point of Russell Island; or Graves Rocks (on the outer coast); or Cormorant Rock, or any adjacent rock, including all of the near-shore rocks located along the outer coast, for a distance of 1½ nautical miles, southeast from the mouth of Lituya Bay; or the surf line along the outer coast, for a distance of 1½ nautical miles northwest of the mouth of the glacial river at Cape Fairweather.

(b) Operating a vessel or otherwise approaching within 100 yards of a Steller (northern) sea lion (*Eumetopias jubatus*) hauled-out on land or a rock or a nesting seabird colony: *Provided, however,* that vessels may approach within 50 yards of that part of South Marble Island lying south of 58°38.6' N latitude (approximately the southern one-half of South Marble Island) to view seabirds.

(c) May 1 through August 31, operating a vessel, or otherwise approaching within ¼ nautical mile of, Spider Island or any of the four small islets lying immediately west of Spider Island.

(d) May 1 through August 31, operating a cruise ship on Johns Hopkins Inlet waters south of 58°54.2' N

latitude (an imaginary line running approximately due west from Jaw Point).

(e) May 1 through June 30, operating a vessel or a seaplane on Johns Hopkins Inlet waters south of 58°54.2' N latitude (an imaginary line running approximately due west from Jaw Point).

(f) July 1 through August 31, operating a vessel or a seaplane on Johns Hopkins Inlet waters south of 58°54.2' N latitude (an imaginary line running approximately due west from Jaw Point), within ¼ nautical mile of a seal hauled out on ice; except when safe navigation requires, and then with due care to maintain the ¼ nautical mile distance from concentrations of seals.

(g) Restrictions imposed in this section are minimum distances. Park visitors are advised that protection of park wildlife may require that visitors maintain greater distances from wildlife. *See*, 36 CFR 2.2 (Wildlife protection).

**§ 13.1180 Closed waters, motor vessels and seaplanes.**

(a) May 1 through September 15, operating a motor vessel or a seaplane on the following water is prohibited:

(1) Adams Inlet, east of 135°59.2' W longitude (an imaginary line running approximately due north and south through the charted (5) obstruction located approximately 2¼ nautical miles east of Pt. George).

(2) Rendu Inlet, north of the wilderness boundary at the mouth of the inlet.

(3) Hugh Miller complex, including Scidmore Bay and Charpentier Inlet, west of the wilderness boundary at the mouth of the Hugh Miller Inlet.

(4) Waters within the Beardslee Island group (except the Beardslee Entrance), that is defined by an imaginary line running due west from shore to the easternmost point of Lester Island, then along the south shore of Lester Island to its western end, then to the southernmost point of Young Island, then north along the west shore and east along the north shore of Young Island to its northernmost point, then at a bearing of 15 true to an imaginary point located one nautical mile due east of the easternmost point of Strawberry Island, then at a bearing of 345 true to the northernmost point of Flapjack Island, then at a bearing of 81 true to the northernmost point of the unnamed island immediately to the east of Flapjack Island, then southeasterly to the northernmost point of the next unnamed island, then southeasterly along the (Beartrack Cove) shore of that island to its easternmost point, then due east to shore.

(b) June 1 through July 15, operating a motor vessel or a seaplane on the waters of Muir Inlet north of 59°02.7' N latitude (an imaginary line running approximately due west from the point of land on the east shore approximately 1 nautical mile north of the McBride Glacier) is prohibited.

(c) July 16 through August 31, operating a motor vessel or a seaplane on the waters of Wachusett Inlet west of 136°12.0' W longitude (an imaginary line running approximately due north from the point of land on the south shore of Wachusett Inlet approximately 2¼ nautical miles west of Rowlee Point) is prohibited.

**§ 13.1182 Noise restrictions.**

June 1 through August 31, except on vessels in transit or as otherwise authorized by the superintendent, the use of generators or other non-propulsive motors (except a windlass) is prohibited from 10 p.m. until 6 a.m. in Reid Inlet, Blue Mouse Cove and North Sandy Cove.

**§ 13.1184 Other restrictions on vessels.**

The superintendent will make rules for the safe and equitable use of Bartlett Cove waters and for park docks. The superintendent will notify the public of these rules by posting of a sign or a copy of them at the dock. Failure to obey a sign or posted rule is prohibited.

**§ 13.1186 What are the emission standards for vessels?**

(a) The State of Alaska statutes and regulations applicable to marine vessel emission standards are adopted as a part of these regulations.

(b) Violating a State of Alaska statute or regulation applicable to marine vessel visible emission standards is prohibited.

**§ 13.1188 Where to get charts depicting closed waters.**

Closed waters and islands within Glacier Bay as described in §§ 13.1174–13.1180 of this subpart are described as depicted on NOAA Chart #17318 GLACIER BAY (4th Ed., Mar. 6/93) available to the public at park offices at Bartlett Cove and Juneau, Alaska.

**Subpart O—Special Regulations—Katmai National Park and Preserve****General Provisions****§ 13.1202 Fishing.**

Fishing is allowed in accordance with § 13.40 of this chapter, but only with artificial lures and with the following additional exceptions:

(a) Bait, as defined by State law, may be used only on the Naknek River during times and dates established by

the Alaska Department of Fish and Game, and only from markers located just above Trefon's cabin downstream to the park boundary.

(b) Flyfishing only is allowed on the Brooks River between Brooks Lake and the posted signs near Brooks Camp.

(c) No person may retain more than one fish per day caught on Brooks River, on the waters between the posted signs 200 yards from the outlet of Brooks Lake, or on the water between the posted signs 200 yards from the mouth of the Brooks River on Naknek Lake.

#### **§ 13.1204 Traditional red fish fishery.**

Local residents who are descendants of Katmai residents who lived in the Naknek Lake and River Drainage will be authorized, in accordance with State fishing regulations or conditions established by the Superintendent, to continue their traditional fishery for red fish (spawned-out sockeye salmon that have no significant commercial value).

#### **§ 13.1206 Wildlife distance conditions.**

(a) Approaching a bear or any large mammal within 50 yards is prohibited.

(b) Continuing to occupy a position within 50 yards of a bear that is using a concentrated food source, including, but not limited to, animal carcasses, spawning salmon, and other feeding areas is prohibited.

(c) The prohibitions in this section do not apply to persons—

- (1) Engaged in a legal hunt;
- (2) On a designated bear viewing structure;
- (3) In compliance with a written protocol approved by the Superintendent; or
- (4) Who are otherwise directed by a park employee.

#### **§ 13.1208 Lake Camp.**

Leaving a boat, trailer, or vehicle unattended for more than 72 hours at the facilities associated with the Lake Camp launching ramp is prohibited without authorization from the Superintendent. Leaving a boat unattended at the Lake Camp dock is prohibited.

#### **Brooks Camp Developed Area**

#### **§ 13.1220 Brooks Camp Developed Area definition.**

For purposes of this subpart, the Brooks Camp Developed Area (BCDA) means all park areas within a 1.5 mile radius from the Brooks Falls Platform and is depicted on a map available at the park visitor center. Sections 13.1222–13.2240 of this subpart apply from May 1 through October 31 unless stated otherwise.

#### **§ 13.1222 Camping.**

(a) Camping is prohibited in all areas of the BCDA except within the Brooks Camp Campground and other designated areas.

(b) Camping in Brooks Camp Campground for more than a total of 7 nights during the month of July is prohibited.

(c) Exceeding a group size limit of 6 persons per site in the Brooks Camp Campground while in operation as a designated fee area is prohibited.

#### **§ 13.1224 Visiting hours.**

The Falls and Riffles bear viewing platforms and boardwalks are closed from 10 pm to 7 am from June 15 through August 15. Entering or going upon these platforms and boardwalks during these hours is prohibited.

#### **§ 13.1226 Brooks Falls area.**

The area within 50 yards of the ordinary high water marks of the Brooks River from the Riffles Bear Viewing Platform to a point 100 yards above Brooks Falls is closed to entry from June 15 through August 15, unless authorized by the Superintendent. The Superintendent may designate a route to transit through the closed area.

#### **§ 13.1228 Food storage.**

In the BCDA, all fish must be stored in designated facilities and in accordance with conditions established by the Superintendent. Storing fish in any other manner is prohibited. Employees may store fish in employee residences.

#### **§ 13.1230 Campfires.**

Lighting or maintaining a fire is prohibited except in established receptacles in the BCDA.

#### **§ 13.1232 Sanitation.**

Within the BCDA, washing dishes or cooking utensils at locations other than the water spigot near the food cache in the Brooks Campground or other designated areas is prohibited.

#### **§ 13.1234 Pets.**

Possessing a pet in the BCDA is prohibited.

#### **§ 13.1236 Bear orientation.**

All persons visiting the BCDA must receive an NPS-approved Bear Orientation. Failure to receive an NPS-approved Bear Orientation is prohibited.

#### **§ 13.1238 Picnicking.**

Within the BCDA, picnicking in locations other than the Brooks Camp Visitor Center picnic area, Brooks Campground, Brooks Lake Picnic Area, and a site designated in the employee

housing area is prohibited. Food consumption or possession while at the Brooks River is prohibited.

#### **§ 13.1240 Unattended property.**

Leaving property, other than motorboats and planes, unattended for any length of time within the BCDA is prohibited, except at the Brooks Lodge Porch, Brooks Campground, or designated equipment caches as posted at the Brooks Camp Visitor Center.

#### **§ 13.1242 BCDA closures and restrictions.**

The Superintendent may prohibit or otherwise restrict activities in the BCDA to protect public health and safety or park resources. Information on BCDA closures and restrictions will be available for inspection at the park visitor center. Violating BCDA closures or restrictions is prohibited.

#### **Subpart P—Special Regulations—Kenai Fjords National Park**

#### **§ 13.1302 Subsistence.**

Subsistence uses are prohibited in, and the provisions of Subpart F of this part shall not apply to, Kenai Fjords National Park.

#### **§ 13.1304 Exit Glacier.**

(a) Except for areas designated by the Superintendent, climbing or walking on, in, or under Exit Glacier is prohibited within ½ mile of the glacial terminus from May 1 through October 31, and during other periods as determined by the Superintendent. Restrictions and exceptions will be available for inspection at the park visitor center, on bulletin boards or signs, or by other appropriate means.

(b) Entering an ice fall hazard zone is prohibited. These zones will be designated with signs, fences, rope barriers, or similar devices.

#### **§ 13.1306 Public use cabins.**

(a) Camping within 500 feet of the North Arm or Holgate public use cabin is prohibited except by the cabin permit holder on a designated tent site, or as otherwise authorized by the Superintendent.

(b) Camping within the 5-acre NPS-leased parcel surrounding the Aialik public use cabin is prohibited except by the cabin permit holder on a designated tent site, or as otherwise authorized by the Superintendent.

(c) Lighting or maintaining a fire within 500 feet of the North Arm or Holgate public use cabins is prohibited except by the cabin permit holder in NPS established receptacles, or as otherwise authorized by the Superintendent.

(d) Lighting or maintaining a fire within the 5-acre NPS-leased parcel surrounding the Aialik public use cabin is prohibited except by the cabin permit holder in NPS-established receptacles, or as otherwise authorized by the Superintendent.

**Subpart Q—Special Regulations—Klondike Gold Rush National Historical Park**

**§ 13.1402 Camping.**

(a) Camping is permitted only in designated areas.

(b) Camping without a permit is prohibited. The Superintendent may establish permit terms and conditions. Failure to comply with permit terms and conditions is prohibited.

(c) Camping at Dyea campground more than 14 days in a calendar year is prohibited.

**§ 13.1404 Preservation of natural, cultural, and archaeological resources.**

The Superintendent may allow the gathering of mushrooms in accordance with § 2.1(c) of this chapter.

**§ 13.1406 State lands.**

The National Park Service administers certain state-owned lands and waters within the boundary of Klondike Gold Rush National Historical Park under a memorandum of understanding with the State of Alaska. The prohibition on carrying, possession, and use of weapons, traps, and nets in this chapter does not apply to the lawful taking of wildlife on these State-owned lands and waters.

**Subpart R—Special Regulations—Kobuk Valley National Park**

**§ 13.1502 Subsistence resident zone.**

The following area is included within the resident zone for Kobuk Valley National Park: The NANA Region.

**§ 13.1504 Customary trade.**

In addition to the exchange of furs for cash, “customary trade” in Kobuk Valley National Park shall include the selling of handicraft articles made from plant material taken by local rural residents of the park area.

**Subpart S—Special Regulations—Lake Clark National Park and Preserve**

**§ 13.1602 Subsistence resident zone.**

The following communities and areas are included within the resident zone for Lake Clark National Park: Iliamna, Lime Village, Newhalen, Nondalton, Pedro Bay, and Port Alsworth.

**Subpart T—Special Regulations—Noatak National Preserve [Reserved]**

**Subpart U—Special Regulations—Sitka National Historical Park**

**§ 13.1802 Prohibited activities.**

The following activities are prohibited in Sitka National Historical Park—

- (a) Camping.
- (b) Riding a bicycle, except in the public parking areas and on routes designated by the Superintendent. Routes may only be designated for bicycle use based on a written determination that such use is consistent with the purposes for which the park was established.

(c) The use of roller skates, skateboards, roller skis, in-line skates, and other similar devices.

**Subpart V—Special Regulations—Wrangell-St. Elias National Park and Preserve**

**§ 13.1902 Subsistence.**

(a) *Subsistence resident zone communities.* The following communities and areas are included within the resident zone for Wrangell-St. Elias National Park: Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway/Northway Village/Northway Junction, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and Yakutat.

(b) *Subsistence resident zone boundaries.* Boundaries for communities and areas added to the park resident zone will be determined by the Superintendent after consultation with the affected area or community. If the Superintendent and community are not able to agree on a boundary within two years, the boundary of the area or community added will be the boundary of the Census Designated Place, or other area designation, used by the Alaska Department of Labor for census purposes for that community or area. Copies of the boundary map will be available in the park headquarters office.

(c) *Subsistence aircraft exemption.* In extraordinary cases where no reasonable alternative exists local rural residents who permanently reside in the following exempted community(ies) may use aircraft for access to lands and waters within the park for subsistence purposes in accordance with a permit issued by the Superintendent: Yakutat (for access to the Malaspina Forelands Area only).

**§ 13.1904 Kennecott Mines National Historic Landmark (KNHL).**

A map showing the boundaries of the KNHL is available at the park visitor center. The following activities are prohibited within the KNHL—

- (a) Entering closed structures or passing beyond barricades;
- (b) Entering mine tunnels and other mine openings;

(c) Camping in or on any historic structure; and

(d) Camping within the mill site of the KNHL. The mill site consists of the collection of buildings clustered around the mill building on both sides of National Creek. For purposes of this subpart, the mill site is the area bounded by Bonanza Creek to the north, the Kennicott Glacier to the west, the 2,200 foot contour line to the east, and Sweet Creek to the south. The mill site is depicted on a map available at the park visitor center; and

(e) Lighting or maintaining a fire within the mill site as defined in paragraph (d) of this section.

**§ 13.1906 Headquarters/Visitor Center Developed Area (HVCDA).**

For purposes of this subpart, the HVCDA consists of all park areas within a ½ mile radius of the Wrangell-St. Elias National Park and Preserve Headquarters building, other than the Valdez Trail. The following activities are prohibited within the HVCDA:

- (a) Lighting or maintaining a fire;
- (b) Camping;
- (c) Entering the area after visiting hours (visiting hours will be posted at the entrance gate).

**§ 13.1908 Slana Developed Area (SDA).**

For purposes of this subpart, the Slana Developed Area consists of all park areas within a ¼ mile radius of the Slana Ranger Station.

**§ 13.1910 KNHL and developed area closures and restrictions.**

The Superintendent may prohibit or otherwise restrict activities in the KNHL, Headquarters/Visitor Center Developed Area, and Slana Developed Area to protect public health and safety or park resources. Information on closures and restrictions will be available at the park visitor center. Violating these closures or restrictions is prohibited. Notwithstanding the provisions of this subpart, the Superintendent may issue a Special Use Permit to authorize uses in the KNHL and either developed area.

**Subpart W—Special Regulations—  
Yukon Charley Rivers National  
Preserve [Reserved]**

Dated: November 17, 2006.

**David M. Verhey,**

*Acting Assistant Secretary, Fish and Wildlife  
and Parks.*

[FR Doc. E6-19968 Filed 11-29-06; 8:45 am]

**BILLING CODE 4312-HX-P**