

§ 13.43

(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 Subpart C of this part).

§ 13.43 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.

§ 13.44 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 na-

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tional park or monument may apply to the appropriate Superintendent pursuant to the procedures set forth in § 13.51 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.

§ 13.45 Prohibition of aircraft use.

(a) Notwithstanding the provisions of § 13.12 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 set forth in Subpart C of this part.

(iii) A community included as an "exempted community" in Subpart C 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 §13.51. 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.

§13.46 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 therefor 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