

National Park Service, Interior

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§ 13.51 Application procedures for subsistence permits and aircraft exceptions.

(a) Any person applying for the subsistence permit required by § 13.44(a), or the exception to the prohibition on aircraft use provided by § 13.45(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 (1) 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 (2) additional statements or documentation which demonstrates that the applicant satisfies the criteria set forth in § 13.44(a) for a subsistence permit or § 13.45(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 C—Special Regulations— Specific Park Areas in Alaska

§ 13.60 Aniakchak National Monument and Preserve.

(a) *Subsistence*—(1) *Resident Zone*. The following communities and areas are included within the resident zone for Aniakchak National Monument:

Chignik
Chignik Lagoon
Chignik Lake
Meshik
Port Heiden

§ 13.61 Bering Land Bridge National Preserve.

(a) *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.

§ 13.62 Cape Krusenstern National Monument.

(a) *Subsistence*—(1) *Resident Zone*. The following communities and areas are included within the resident zone for Cape Krusenstern National Monument:

Kivalina
Kotzebue
Noatak

§ 13.63 Denali National Park and Preserve.

(a) *Subsistence*—(1) *Resident Zone*. The following communities and areas are included within the resident zone for Denali National Park addition:

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Cantwell
Minchumina
Nikolai
Telida

(b) *Camping.* Camping is prohibited along the road corridor and at Wonder Lake, except at designated areas. Camping is allowed in other areas in accordance with the backcountry management plan.

(c) *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.

(d) *Operation of motor vehicles on the Denali Park road west of the Savage River—(1) 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).

(2) *How many permits will be issued each summer?* The superintendent is authorized, under this section, 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.

(3) *How will the superintendent manage the permit program?* (i) The superintendent will apportion motor vehicle permits among authorized users following the procedures in §13.31. Authorized users are individuals, groups and governmental entities who are allowed by law or policy to use the restricted section of the road.

(ii) 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 super-

intendent's compendium is available to the public upon request.

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

(4) *What is prohibited?* (i) No one may operate a motor vehicle on the restricted section of the Park road without a valid permit.

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

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

(e) *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.

(f) *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.

(g) *Kantishna area summer firearm safety zone—(1) 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.

(i) 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.

(ii) 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.

(h) *Snowmachine (snowmobile) operation in Denali National Park and Preserve—(1) 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.

(2) *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.

(3) *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 §13.46.

(4) *What types of snowmachines are allowed?* The types of snowmachines allowed are defined in §13.1(q) under *snowmachine* or *snowmobile*.

(5) *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.

(6) *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.

(7) Nothing in this section shall limit the authority of the superintendent to restrict or limit uses of an area under other statutory authority.

[46 FR 31854, June 17, 1981, as amended at 45 FR 78120, Nov. 25, 1980; 48 FR 30295, June 30, 1983; 61 FR 6944, Feb. 23, 1996; 65 FR 37878, June 19, 2000]

§13.64 Gates of the Arctic National Park and Preserve.

(a) *Subsistence—(1) 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