

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING
ANILCA IMPLEMENTATION PROGRAM

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February 15, 2004

Marcia Blaszk
Acting Regional Director
National Park Service
240 West 5th Avenue
Anchorage, AK 99501

Dear Ms. Blaszk:

The State of Alaska reviewed the draft 2004 Superintendent's Proposed Compendia for all park units in Alaska, as posted on the National Park Service website. This letter represents the consolidated views of the State's resource agencies.

We appreciate the opportunities provided to cooperatively evaluate park management issues in the development of this year's compendia. This improved process serves many mutual goals, including retaining public uses protected under ANILCA, minimizing impacts of Service actions on state management authorities, and protecting park resources. We are committed to cooperatively assessing issues throughout the year that might require changes or additions to these compendia. We enjoy the growing cooperation with park managers in acknowledging that many Service management actions affect the State's management of fish, wildlife, water, related public activities, and adjoining lands. This ongoing cooperative approach has the additional benefit of assuring that compendia meet the intent of 36 CFR 1.5(c) to use the least restrictive measures necessary to suffice for management of park resources. We also appreciate recognition that "less restrictive measures" may include use of state authorities.

GENERAL COMMENTS

Determinations.

Pursuant to 36 CFR Part 1, all restrictions or liberalizations must be "*based upon a determination that such action is necessary.*"¹ The justifications for some of the proposed 2004 restrictions on public activities are contained in detailed "determinations" available at the park office. Others have explanations in italics following a compendium entry, or are appended at the end of the respective compendium. Some of these explanations are useful additions that clarify intent. Others appear to be cursory attempts to fulfill the 36 CFR Part 1 required "determination". All determinations are required to be available before implementation of the compendia so the public

¹ The national and Alaska requirements for restricting public uses in compendia are provided in the Appendix as background for readers of our comments.

can understand the basis for the proposed restrictions. We recognize that development and portrayal of the determinations is an evolving process. To improve the availability of these justifications, we recommend the Service provide determinations as an attachment or as a separate document in order, *unless* needed in the body of the document to clarify intent. This approach prevents dilution of the primary compendia content. Ideally, the full text of determinations will be available through a link with each compendium on the respective park web sites, as well as the region's centralized compendia page.

Use of state law. On several occasions, this letter provides discussion on the use and applicability of existing state laws in lieu of adopting new park restrictions. We appreciate the Service's willingness to consider expansion of this approach and offer additional suggestions. We look forward to further opportunities to cooperate with the Service to address enforcement issues as they arise.

Limit applicability to federal land. We request that the introduction to each compendium include an explanation that park rules only apply to park areas managed by the Service. Unless otherwise agreed to by other landowners or managers, park compendium provisions do not apply to private lands or state land and waters. We also note in our park-specific comments where we request references to state-owned land/water be removed.

Compendia as educational tools. In addition to their role as a rulebook, we appreciate that compendia can also educate the public and encourage more responsible behavior. In a few cases, we suggest additions to the compendia that offer relevant information about applicable non-federal rules.

Again, the State appreciates the considerable effort that individual parks and the regional office are investing in continuing to improve these compendia, as well as the associated effort to implement appropriate proposals through formal rulemaking. We remain available to assist in this process and to evaluate new issues as they emerge. If you have any questions about the attached review comments, please call me at 269-7477. Thank you for your consideration.

Sincerely,

/ss/

Sally Gibert
State ANILCA Coordinator

cc: Vic Knox, Acting Deputy Regional Director
Jay Liggett, Regional Chief Ranger

Attachments

GENERAL COMMENTS BY SECTION NUMBER

2.1(a)(5) Designated areas for walking or climbing on cultural sites

Except where there are park-specific issues to address, we encourage consistent wording and suggest the following language as the “default” approach:

There are no cultural resources designated for walking or climbing upon.

(Note the removal of “*There are no designated areas.*” This language may confuse the reader.)

2.3(d)(2) Waters Open to Bait Fishing in Fresh Water

ANILCA Sections 1313 and 1314 reaffirm state management of fishing under applicable state and federal law. References to the federal subsistence regulations affecting fishing are unnecessary in the compendia. Both the State and federal boards regulate subsistence fishing, not just the federal board under the cited regulations. Regulations affecting subsistence as well as other fisheries can occur at any time during the year. If the Service chooses to include reference to the federal subsistence regulations, we request the following revision:

Superseded by Section 13.21(b)—State law applies. Unless modified for subsistence pursuant to 50 CFR Part 100, bait may be used in accordance with State law.

2.14(a)(7) Sanitation—designated areas for disposal of fish remains

For consistency and clarity, we request all compendia adopt the following language as the default approach, unless there are park-specific issues that can be addressed via compendium:

“There are no designated areas, therefore, fish remains may not be disposed of on either land or water within 200 feet of public boat docks, designated swimming beaches, or within developed areas.”

2.14(a)(9) Human waste disposal in undeveloped areas

We recognize the need for some park-specific variations (e.g., glacier travel, areas with cultural sites), but encourage a consistent default approach wherever possible. Consistent with state law and established practices, we request the compendia prohibit human waste disposal within 100 feet of all water bodies, as follows:

“Disposing of human body waste within 100 feet of a water source, high water mark of a body of water, or a campsite, or a trail is prohibited.”

The digging of cat holes is addressed in most of the compendia. We request further consideration of where and how to bury human waste. Unless dictated by special circumstances, such as high use areas or low biological activity, we also request that all park units consider the option of disposing of toilet paper in the backcountry by burial, burning, or packing out as trash. We encourage additional interagency dialogue on this issue.

2.15(a)(1) Pets

The compendia for Denali, Kenai Fjords, and Glacier Bay propose to restrict or prohibit pets in the backcountry areas. Park regulations already require pets be restrained on leashes. Any additional prohibitions of pets in the backcountry must be implemented through regulations, except on an emergency or temporary and then site-specific basis. We are evaluating a pet prohibition already proposed for adoption in regulation for Glacier Bay Park (not the preserve) and portions of Denali Park (not the preserve.) At this time, however, we object to blanket prohibitions in the Kenai Fjords park backcountry and in other parks.

13.17(e)(4)(i) Designated existing cabins, shelters or temporary facilities that may be shared for subsistence use without a permit

We request changing the above word “use” to “purposes” to accurately quote the Code of Federal Regulations. This clarifies the intent to require a permit of all users who may use the cabin for subsistence purposes, not to designate the building as a subsistence cabin.

We recommend the superintendents annually consider whether specific park cabins are routinely used for subsistence purposes during particular times of year and designate those cabins for use in the annual compendium. The cited regulation states: “*the Superintendent may designate existing cabins or other structures that may be shared by local rural residents for authorized subsistence uses without a permit.*” If a cabin is routinely used for subsistence purposes during particular times of year or for specific purposes, it is less burdensome for the Superintendent and the subsistence users to list and designate such cabins in the compendium.

13.17(e)(5)(i) Designated cabins for general public use

The text of the regulation gives the superintendent authority to designate a cabin as a public use cabin. Such cabins “*are intended for short term recreational use and occupancy only.*” The superintendent “*may establish conditions and develop an allocation system in order to manage the use of designated public use cabins.*” The cabins shall be signed and the location available on a map. There are other cabins in the parks; therefore, we request the following entry to designate cabins for public use in all parks, as in Glacier Bay’s compendium:

“No [additional] formal designations; however, all federal cabins not otherwise under permit, are open for short term public use (up to 14 days.)”

13.19(b) Carrying firearms

We recognize and support Service interest in changing existing park regulations (e.g., 13.1(f) and 13.19) that create conflicts with the Alaskan way of life, inhibit reasonable safety, and recognize the need to transit these huge park areas to access legal harvesting areas within and adjacent to the park units. We encourage development of new regulations that accomplish the following objectives:

- Provide for the use of bear spray in all Alaska park units
- Allow use of firearms, nets, and traps for legitimate hunting, fishing, and trapping under state and federal laws
- Allow transport of firearms for legal purposes across the former Katmai National Monument

We continue to request the Service exercise its authority under 36 CFR Part 1 to recognize the Alaskan differences through liberalizing the national restrictions on the above activities in Alaska-specific regulations and compendia.

13.22(c) Unattended personal property

Current regulations allow storage of personal property for up to one year. We support the Service's effort to shorten this time, recognize the public's seasonal needs, and require identification of personal property in order to reduce enforcement problems. However, we request the Service additionally recognize the traditional use of 55-gallon drums for fuel storage throughout Alaska park units.

We notice that Denali and Gates of the Arctic propose to waive the requirements in this section, including the 30-gallon fuel storage limit, for qualified subsistence users in recognition of the potential impacts it has on this traditional activity. We request the opportunity to discuss expansion of this approach to other applicable park units.

We object to limiting fuel storage to 30-gallons² (or less) because it unnecessarily limits users, particularly rural Alaskans, who use 55-gallon drums throughout Alaska (not just in the northern part of the state) and unreasonably requires rural residents to order new containers. While many pilots have the financial resources and other reasons to convert to modern plastic 30-gallon drums, most fuel containers found in "bush" Alaska are 55-gallon drums. Limiting fuel caches to 30 gallons or less not only increases costs, it increases environmental concerns associated with additional fuel transfer and subjects rural Alaskans to criminal penalties when conducting routine activities across mixed land ownerships.

We also object to the requirement of storing fuel more than 100 feet from any water body. This is simply not feasible in many locations, thus is too restrictive as an arbitrary distance requirement. Any fixed distance will not account for the terrain, fluctuating water levels, and other site-specific conditions, and may increase the potential for spills by pumping and transporting fuel between the drum and vessels. Instead, we request the Service require users to cache their fuel to prevent spillage, regardless of distance from water. The compendia, in an educational role, could then suggest voluntary measures to handle and store fuel safely.

Finally, we are perplexed that for those compendia where 13.22(c) is applicable, all except Kenai Fjords require fuel to be stored in "UL approved steel fuel containers." Only Kenai Fjords mirrors language that we understand will be proposed in the upcoming draft regulations package: "Fuel must be contained in an undamaged and closed fuel container designed for fuel storage." The steel container requirement precludes the 30-gallon plastic containers favored by some people. We request the requirement for steel containers be dropped.

² Close scrutiny of the proposed restriction reveals that the restriction applies to volume of the fuel, not size of the container; thus Alaskans can logically continue to use 55-gallon drums and only fill them with 30 gallons. However, the Service increases potential conflicts with those who will misinterpret this regulation as applying to the container and thus have a chilling effect on the customary and allowed use of the park area.

13.30(d)(2) Camping

Several compendia contain various permanent backcountry camping closures or restrictions. The Service's regulations direct that camping limits only be implemented through rulemaking in the Federal Register. We support promulgation of a regulation that mirrors state rules for camping on state land, such as:

The State allows setting up and using a camp for personal, noncommercial recreational purposes, or for any non-recreational purpose, (such as a support camp during mineral exploration), for no more than 14 days at one site, using a tent platform or other temporary structure that can readily be dismantled and removed, or a floathouse that can readily be moved. Moving the entire camp at least two miles starts a new 14-day period.

This camping provision: 1) ensures that individual parties cannot monopolize prime camping sites for long periods of time, 2) deters illegal guides that rotate clients through the same campsite all season, and 3) minimizes damage to vegetation from long term site use. Where permanent closures or camping limits shorter than 14 days are warranted, such restrictions require adoption as park-specific regulations under Part 13, Subpart C.

We object to the use of temporary closures on a year-to-year basis. Section 13.30(d)(3) states, “temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.” Temporary closures extended beyond one year (repeated each subsequent year) are, in fact, permanent closures. Thus, federal rulemaking procedures for permanent closures under Section 13.30(e) are applicable. Where there is a need for area closures on a seasonal or temporary basis, we will assist the Service in development of reasonable restrictions through regulation or use of state management options.

Park-Specific Comments

DENALI

1.5(a)(1) Visiting hours, public use limits, closures

Page 2 of the draft Denali compendium states, “*Riding bicycles is not allowed on NPS trails or the roadside path.*” The scope of this provision and the location of the trails are unclear. We request that the final compendium include maps and/or specifically describe the affected trails. If the referenced trails are paved, then we anticipate development of a facilities regulation to cover those trails. If other well-used, improved trails in the park entrance area are included, we recommend proposing a “developed area” regulation to collectively address bicycle use in the entrance area. Consistent with ANILCA, bicycles in undeveloped areas or on backcountry trails are only prohibited by regulation.

2.2(d) Wildlife transport

As we discussed last year, we request deletion of the following paragraph:

All legally taken game being transported through the Park from Kantishna by motor vehicle must be transported directly out of the Park without delay. Meat and other animal parts must be completely covered, secured, and out of view.

This paragraph implies that hunting in Denali is an aesthetically incompatible activity that must be hidden from public view and removed as quickly as possible. Instead, the visiting public should be educated through various means about the special provisions of ANILCA that allow hunting in all or parts of many park units in Alaska, including Denali. Seeing a fresh moose rack on the back of a truck, for example, should be portrayed by tour guides and bus drivers as a valuable teaching opportunity about the special ANILCA protections of the Alaska lifestyle, rather than something to be upset or ashamed about.

We recognize that transporting game meat along the road through wildlife concentration areas may be a legitimate concern as an animal attractant. However, this concern is already addressed through enforcement of state law. (See our comments under 2.10(d) regarding food storage.)

2.2(e) Designated areas for wildlife viewing with artificial light

Use of artificial light is prohibited throughout Denali Park and Preserve; but in all other units where hunting is allowed, the compendia defer to existing state and federal law addressing the use of light for hunting purposes. For wildlife viewing purposes, there is little darkness in Alaska during the summer visitor season, and we are unaware of a need for additional prohibitions. We request the Denali compendium be consistent with other compendia by adopting the following language:

No areas designated for closure. For sport hunting in the Preserve, state law prohibits the use of artificial light. Federal subsistence hunting regulations provide for the use of artificial light in some circumstances (50 CFR 100).

2.4(a)(2)(i) – justification language in italics

“...weapon is broken down *and* made inaccessible...” To be consistent with CFR and language above in Compendium, the “*and*” should be changed to “*or*”.

2.10(d) – Food storage – designated areas and methods

We request revision of the first bullet to clarify that it addresses food storage requirements in campgrounds only. We continue to object to the second bullet, which arbitrarily requires bear proof containers in all backcountry units in the old Park, even if no perishable food is being carried and the campers are well away from the park road or bear concentration areas. We request that food storage be addressed in the same manner as recommended for other backcountry areas by keeping the focus on prohibiting animal attractants in combination with an education program and the continued availability of containers for loan from the park. We continue to encourage the Service cooperatively evaluate the park conditions with the State’s experts, use education, and defer to state law while the food storage work group continues discussions toward mutually acceptable recommendations.

2.13(a)(1) fires—designated areas and conditions

Provision A on page 9 states: “*No fires may be kindled in the backcountry of the wilderness area of the Park or Preserve between April 15 and September 30 except in cases of an emergency.*” This provision is too restrictive in that it does not recognize fires that traditionally accompany hunting activities or seasonal conditions such as the presence of snow cover as a wildfire deterrent. We support the Superintendent’s ability to restrict fires when and where fire danger is high or in high use areas with limited firewood sources. We recommend cooperative consideration of a regulation to appropriately balance the reasonable use of fire with resource protection.

2.15(a)(1) Pets

See our general comments about use of regulations rather than compendia to prohibit pets in the backcountry. We request deletion of the blanket prohibition throughout the backcountry; but we are willing to evaluate a proposed regulation to prohibit pets in portions of the Park. Such proposals will need suitable justification and appropriate exceptions such as those outlined in the first bullet for hunting and winter use. We appreciate the Service’s recognition of these exceptions, especially the seasonality of the concern. We continue to find no basis for prohibiting pets in the Preserve. We urge the Service to prioritize increased efforts to educate visitors about the existing leash law and implement enforcement before pursuing broad based pet prohibitions.

The remaining four bullets are examples of appropriate use of compendia to restrict activities.

2.19(a) Winter activities -- designated areas

We suggest the Park follow language in other compendia as the “default” approach, e.g., the Glacier Bay compendium:

“Roads and parking areas open to vehicle traffic in the winter are designated as open to winter activities in 2.19(a.)”

13.30(d)(2) Temporary closures and restrictions (other)

The second paragraph states: “*Camping in the backcountry designated units is limited to 30 days total between April 15-September 30 with no more than 7 days in one unit on each trip.*” As noted in our general comments about backcountry camping above, we request that implementation of permanent limits use the least restrictive method to accomplish the objective based on a determination of need. We also reiterate that federal regulations require rulemaking to implement restrictions on camping.

We object to the park-wide and unnecessarily restrictive 7-day limit. Instead, we encourage the Park to use the more universal 14-day camping limit. Shorter time limits may be appropriate in specific locations to address site-specific problems, e.g., high use areas with few suitable sites or unusual sensitivity. Duration restrictions need careful evaluation to avoid impacts on legal hunting (where base camps used longer than 7 days are common) and to apply only to the specific season of concern.

The unit wide 30-day seasonal limit is unnecessarily broad. The seasonal limit might be justifiable, for example, in specific areas based on accessibility and potential for abuse (e.g., housing camps by seasonal workers). We offer to work with the Park to develop a reasonable alternative to the unit wide seasonal limit.

13.63(b) Backcountry Camping

The State reiterates a longstanding concern about requiring camping permits in Denali, especially in the winter and in remote areas where overcrowding or competition is not an issue. We request deletion of this unnecessary requirement during periods and in locations of extremely low visitation.

GATES OF THE ARCTIC

2.14(b) Sanitation – conditions concerning disposal, carrying out of human waste

All park units in Alaska and state law require disposal of human waste at least 100 feet from water bodies, except the Gates of the Arctic compendia proposes a 200-foot setback. We strongly encourage applying the generally accepted 100-foot setback on all lands. A more restrictive requirement may be justifiable on a site-specific basis, but there appears to be inadequate justification for managing the entire Gates of the Arctic park unit differently.

43 CFR 36.11(g)(1) ORVs on established trails

We request the reference to the Anaktuvuk Pass Land Exchange be accompanied by a map or web site link that illustrates the location of these designated trails.

GLACIER BAY

Important caveat: As you know, the State and the Service are in court over the ownership and jurisdiction of waters within the exterior boundaries of Glacier Bay National Park. Consequently, until this legal dispute is resolved, there is little value in conducting a line-by-line

analysis of our position with respect to individual compendium provisions affecting waters and their uses. With this in mind, our silence on these provisions does not indicate concurrence.

Consistent with our general comments, we request the following revisions:

2.10(a) Camping – conditions and permits

Rather than requiring a permit for overnight camping within Glacier Bay proper, we encourage the Service to require an NPS-approved orientation program for disseminating information to recreation users. We interpret the required permit as a form of camping closure which, in our view, can only be implemented by regulation under 36 CFR 13.30. We believe an orientation program can meet the Service's goals, such as disseminating information on temporary closures to protect wildlife and users, without requiring users to get a permit.

Regarding the italicized justification, we object to use of a permit system designed primarily to gather information: "...track overall backcountry use and distribution within Glacier Bay...". A complete census of backcountry users is not necessary to the management of the Park. Other data collection methods are available to acquire the necessary data that better meet the intent of applying "less restrictive measures."

2.14(a)(9) Sanitation – designated areas for disposal of human waste in undeveloped areas

Both Glacier Bay and Lake Clark contain the following provision: "*Within 1/4 mile of shoreline, human body waste will either be removed as trash or deposited in cat-holes dug at least 100 feet from any surface freshwater source and at least 6 inches deep.*" Since there is no reason to limit this requirement to coastal areas, we request deletion of the caveat "*Within 1/4 mile of shoreline.*" Since there are no other human waste provisions that apply to other backcountry areas in these two units, we presume this is leftover unintended language from earlier drafts.

2.14(b) Sanitation – conditions concerning disposal, carrying out of human waste

For the Alsek River area, the compendium contains the following requirement: "*Disposal of human body waste within one-half mile of the Alsek River is prohibited. Solid waste must be carried to the NPS dump station provided at Dry Bay.*" If the human waste problem is indeed severe enough to warrant this requirement, we suggest consideration of latrines at key camping concentration areas to improve compliance.

2.15(a)(1), (a)(3), (a)(5), (b), (e) Pets

The '04 compendium proposes a prohibition of pets in the Park backcountry. The italicized justification notes concern about free-ranging pets, yet national regulations already require pets to be physically controlled at all times. Consistent with our general comments, a park-specific regulation is a more appropriate method of prohibiting pets if national regulations are not adequate.

3.3 Permits (Alsek River)

Fourth bullet: We remain on record opposing a federal permit requirement to operate non-motorized watercraft on the Alsek River, a state-owned navigable water body.

13.22 (c) Unattended Property

We object to the prohibition on leaving personal property longer than 30 days. All Park compendia other than Kenai Fjords and Glacier Bay allow personal property to be left for up to four months without a permit, as long as the property is properly labeled and stored. We also request that Glacier Bay replace the proposed 10 gallon storage limit with 55 gallons, consistent with our comments for all other units (which currently allow 30 gallons). While 10 gallons may appear reasonable for Glacier Bay proper, there is no justification for this unusually stringent limit in other areas of the park or preserve.

13.30(d)(2) Temporary closures and restrictions

As noted in 2.10(a) above, we request substitution of the backcountry permit requirement with the language proposed in the “Phase 1” draft regulations developed in conjunction with the State. This mutually agreed upon approach provides the informational objectives needed by the Service, while preventing permit requirements.

We also object to, or question the need for, the following compendium restrictions:

- Prohibition of camping in one location for more than 3 nights
- Group size limits
- Annual backcountry quotas (1870 visitors to Glacier Bay proper per season)
- All of the Alsek camping restrictions (objection in part due to jurisdictional concerns)
- Wolf Creek camping restrictions
- Margerie/Toyatte Glacier camping restrictions

If the above restrictions are reasonable and justifiable, we desire an opportunity to mutually evaluate alternative methods of management and public uses for this year. The Service must pursue adoption of regulations as required prior to implementation as proposed.

13.65 Glacier Bay National Park and Preserve Special Regulations

(a)(2)(iii) New or expanded fisheries prohibited. List of existing fisheries and gear types:

In addition to the appropriate gear types listed, we request acknowledgement of a minor harvest of groundfish with mechanical jig gear and allowed incidental catch by trollers.

Subpart C 13.65(b)(3)(ix)(C)

The “January 1 – December 31” heading is confusing because most of the provisions are not – in fact – specific to certain seasons or dates. In addition, the first entry is for a different set of dates. It would be helpful to reorganize this section if possible.

KATMAI

1.5 Wildlife Distance Conditions

This past season, our respective biologists and field personnel evaluated the application of the mutually developed “*Best Practices for Viewing Bears on the West Side of Cook Inlet and the Katmai Coast.*” It recently came to our attention that, as written, this compendium entry does not accommodate an extremely important exception recognized in that document:

Curious or aggressive bears should be actively discouraged from approaching people. *If a bear is approaching people, they need to make sure they are not inadvertently blocking its travel path or monopolizing a feeding site. If, after people attempt to get out of its way, a bear continues to approach too closely, then they should assert themselves to define and defend a consistent personal space. Assertive actions should begin with the most innocuous such as holding one's ground (not moving away from the bear), raising one's arms and waving, speaking to the bear, and standing on a higher object. If approach continues, assertive actions should escalate appropriately. If a young bear learns it can push people around, this behavior is reinforced and the bear can become a problem.*

We therefore request consideration of an addition to the 2004 Compendium to reflect this exception. Proposed new language is highlighted in boldface.

The prohibitions do not apply to persons

(i) engaged in a legal hunt

(ii) on a designated bear viewing structure

(iii) in compliance with a written protocol approved by the superintendent

(iv) if otherwise directed by a park employee

(v) If, after attempting to get out of its way and away from the concentrated food source, a bear continues to approach within 50 yards, then visitors should stop and assert themselves until the bear withdraws beyond 50 yards.

Such a caveat allows and encourages visitors to 1) stand their ground even when a bear approaches within 50 yards, and 2) act assertively to discourage the bear from continuing this behavior. As written, visitors may get the erroneous and possibly fatal idea that they need to continue to move away from curious and/or aggressive bears. People who walk or run away from curious or assertive young bears are rewarding bad behavior that will likely get such bears killed in this or subsequent situations.

This request results from additional information that recently came to our attention, documented in the following report: “***Management of Katmai’s Coastal Brown Bear Populations: Hallo Bay: An informal discussion among bear biologists intended to assist the National Park Service in management of coastal bear viewing.*** (Schoen et. al., June 27-29, 2000). This “white paper” was developed in part by NPS bear experts and discusses the previous 50-100 yard rule:

. . . checking up from sub adult bears in order to maintain the 50-100 yard rule, sends the wrong message to bears (i.e., that pushing people around is alright) at a critical time in their lives.

2.2(e) Designated areas for wildlife viewing with artificial light

Use of artificial light is prohibited in the former Katmai National Monument. Where hunting is allowed, we appreciate that the compendium defers to existing state and federal law. For wildlife viewing purposes, however, there is little darkness in Alaska during the summer visitor

season, and we are unaware of a need for additional prohibitions. We request the Katmai compendium be consistent with other compendia by adopting the following language:

No areas designated for closure. For sport hunting in the Preserve, state law prohibits the use of artificial light. Federal subsistence hunting regulations provide for the use of artificial light in some circumstances (50 CFR 100).

13.30(d)(2) Temporary closures and restrictions (other)

We support the apparent conclusion to drop the 7-day camping limit used in 2003 as reflected in the Executive Summary:

The 2003 Superintendent's Order limiting camping to 7 consecutive nights within 3 miles of the Katmai coast has been found not to accomplish its intended purpose. In high use areas, this created additional impacts by moving camps multiple times with popular sites continuously occupied. A limitation of 14 consecutive nights with a move of two miles has proven to be adequate in other areas. This rule will provide consistency within the park areas and on contiguous State of Alaska owned lands.

This intent, however, is not reflected in the 2004 Compendium, since the 7-day camping limit along the Katmai coast remains. We checked with the Regional Office and learned that this apparent contradiction was inadvertent, and that the Park's intent is to apply the 14-day limit unit wide. We strongly support use of the 14-day limit which reduces camp movements and best meets the intent of the "*Best Practices for Viewing Bears on the West Side of Cook Inlet and the Katmai Coast,*" including (see source for full text):

- 1b. Promote predictable human behavior
- 1d. Consistently use the same viewing sites
- 1e. Access viewing sites in a consistent manner that minimizes disturbances

13.30 Temporary closures and restrictions (d)(2) (other)

While we recognize the need for careful management of camping at Hallo Bay Meadows, we request the Service take a more detailed look at this issue before implementing a camping closure. We are concerned the camping closure, as proposed, will unfairly favor certain groups, such as day users. The closure may also increase camping impacts or camper safety concerns in areas immediately adjacent to the closed area. We are also concerned that campers walking to the site from adjacent camping areas will not be able to access or depart from primary viewing areas except during periods of low tide.

While we object to the camping closure as written, we encourage the Park to engage in a collaborative effort to develop reasonable alternatives that continue to meet the underlying objectives. There are data available from the Hallo Bay discussion paper and/or ranger reports that can assist managers in determining consistent bear use patterns. This information can assist in development of a camping plan that encourages camping and viewing in minimum impact areas. Alternatives to consider include:

1. Restrict camping to one or more specific areas deemed to be less important to bears

2. Require campers to carry and deploy electric fencing that would deter bears from getting into food and equipment (this would not nullify requirements for bear-resistant food containers.)
3. Require an orientation program to educate campers on the best camping practices for Hallo Bay.

Finally, we encourage the Service to develop a more accurate base map. The USGS base map currently used is inadequate for the intended purpose. Due to alterations in stream course and spit formation, the area has significantly changed since the map was prepared. Perhaps a recent air photo could be used to portray the management solutions that fall out of the collaborative discussions.

43 CFR 36.11(g)(1) ORVs on established trails

We request recognition of trails used by ORVs before the passage of ANILCA, such as the Pike Ridge Trail.

KENAI FJORDS

13.22 Unattended or abandoned property

We object to the prohibition on leaving personal property longer than 30 days. All Park compendia other than Kenai Fjords and Glacier Bay allow personal property to be left for up to four months, as long as the property is properly labeled and stored.

2.15 Determination of Need for prohibition of pets in the backcountry

Kenai Fjords appears to view pets overly negative within most of the park area. Most of the negative consequences indicated in the Determination of need could be avoided through enforcement of existing regulations. We recognize that some areas may not be suitable for pets; but this does not justify a park wide closure.

pet prohibition reason # 11

We suggest changing “Rangers routinely direct pet *users*...” to “...direct pet *owners*...”
(We also note problems with the numbering system in this determination.)

KLONDIKE GOLD RUSH

Introductory paragraph

The State maintains management authority on all navigable waterbodies within Alaska. We request changing “*NPS managed lands and waters*” in the third sentence to “*NPS managed areas*.”

2.4(a)(2)(i) Carrying of weapons at designated locations and times

To avoid implication that the NPS manages waters in the park unit, we request changing “...*does not apply to the lawful taking of wildlife on state-owned lands and waters which are administered by the National Park Service.*” to “... *state-owned lands and waters within the area administered by the National Park Service.*” (emphasis added)

LAKE CLARK

2.14(a)(9) Sanitation – designated areas for disposal of human waste in undeveloped areas

Both Glacier Bay and Lake Clark contain the following provision: “*Within ¼ mile of shoreline, human body waste will either be removed as trash or deposited in cat-holes dug at least 100 feet from any surface freshwater source and at least 6 inches deep.*” Since there is no reason to limit this requirement to coastal areas, we request deletion of the caveat “*Within ¼ mile of shoreline.*” Since there are no other human waste provisions that apply to other backcountry areas in these two units, we presume this is leftover unintended language from earlier drafts.

WESTERN ARCTIC

2.14(a)(5) Designated areas for bathing and washing

Bathing is permitted in the springs, but the next sentence indicates that a person cannot discharge soap or gray water into the spring. This appears to be a contradiction. We suggest providing clarifying language.

2.14(a)(9) Human waste disposal in undeveloped areas

We question the merits of requiring human waste be left on the ground surface. We also dispute the rationale that leaving human waste on surface increases “visitor safety.” Exposed human waste also creates aesthetic impacts. Because of the Service’s concerns that buried human waste may not break down quickly, or that archeological sites might be compromised, we recommend further consideration that human waste be at least minimally covered within the vegetative layer, especially in areas with relatively greater use.

WRANGELL-ST. ELIAS

13.30(d) Temporary closures and restrictions

The Service proposes to close the unofficial campground at Mile 59 of McCarthy Road from April 15 to Oct 15. We understand there remain many opportunities to camp in the area, both in private campgrounds and on other park lands in the vicinity. We are also aware of, and willing to assist with, Service efforts to educate visitors and residents of the area about safe camping techniques, proper bear safety, food storage, and waste management (compost piles). We trust these measures will enable the Service to lift this temporary closure in the near future.

Consistent with our general comments on Section 13.30, if the Service feels it is necessary for the closure to become permanent, we request the closure be completed through regulation.

13.46 Access by local rural residents engaged in subsistence

We note the 2004 compendium contains the identical seasonal closures that appeared in the 2003 compendium. These closures were originally justified based on documented resource damage.

If it appears these seasonal closures will be necessary for the foreseeable future, we recommend consideration of a permanent regulation.

APPENDIX

“Determinations” Required in Regulation in Implementing Compendia Restrictions

According to 36 CFR §1.5, a superintendent’s authority to restrict public uses (frequently issued as a “compendium” or “Superintendent’s Orders”) is required to be:

*(a) Consistent with applicable legislation and Federal administrative policies, and **based upon a determination that such action is necessary** for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities.” [emphasis added]*

This authority is limited in Alaska under ANILCA by Alaska-specific regulations and is limited nationally by §1.5(b): Any actions affecting activities that are “*of a nature, magnitude and duration that will*” significantly alter the public use pattern, parks values, or major modification in resource management, or are highly controversial “*shall be published as rulemaking.*”

Determining whether the action is significant or controversial is a subjective process. Furthermore, the authority must be exercised via the least restrictive measure after preparing a written **determination** available to the public following the process in 36 CFR §1.5(c):

*(c) Except in emergency situations, **prior to implementing or terminating a restriction, condition, public use limit, or closure, the superintendent shall prepare a written determination justifying the action.** That determination shall set forth the reason(s) the restriction, condition, public use limit, or closure authorized by paragraph (a) has been established, **and an explanation of why less restrictive measures will not suffice** . . . This determination shall be available to the public upon request [emphasis added]*

The Alaska specific regulations contained in Section 13.30(a) authorize the superintendent to close an area or restrict an activity on a emergency, temporary or permanent basis, subject to a **determination** that such action is necessary for

(p)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.

Section 13.30 further states:

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; or (2) designated by the posting of appropriate signs; or (3) both.