

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES CITIZENS' ADVISORY COMM'N ON FEDERAL AREAS

BILL WALKER, GOVERNOR

101 AIRPORT ROAD
PALMER, ALASKA 99645-6445
PHONE: (907) 451-2035
FAX: (907) 451-2751

February 15, 2014

Herbert C. Frost, PhD
Regional Director, Alaska Region
National Park Service
240 West 5th Avenue
Anchorage, Alaska 99510

RE: 2015 Proposed Compendiums for Alaska

Dear Director Frost,

The Citizens' Advisory Commission on Federal Areas (Commission) reviewed the 2015 compendium for Alaska units of the National Park System and offers the following comments for your consideration.

The Commission incorporates by reference all previous comments by the Commission and the State of Alaska on the issue of wildlife closures, Part 13 and the compendium process. This includes application of the Commission's December 3, 2014, comments on the proposed rulemaking to those aspects of the proposed compendiums which correspond to the proposed closures in the rulemaking, as well as those aspects which similarly fail to comply with the current regulations regarding closures in Alaska parks and preserves.

COMMENT PERIOD LIMITATIONS

The Commission is very concerned about the manner in which comments were solicited for the 2015 compendium proposals. The comment period happened to close both on a Sunday and the day before a federal holiday. The Commission is aware that, in the past, and in common practice for other agencies, such a circumstance would prompt the acceptance of submissions the next business day; however, the Service has not confirmed it would accept submissions at that time.

Moreover, the Service's website provided that comments would be accepted by mail, hand delivery or via the park planning website. The website also stated that comments would not be accepted by any other method, including email or fax, even though individual compendiums note that submissions by email will be accepted. Neither mail nor hand delivery would be possible on a Sunday, unlike email and fax. The sole remaining option, the park planning website, is highly challenging to navigate, had broken links during the comment period, only accepts comments on an individual unit basis, *and* submissions are only accepted until 10pm AKST (not midnight).

For a number of affected users, if not all, the comment period was neither technically nor reasonably open for 30 days, and no one had until midnight Alaska Time on February 15. The Commission requests that the comment period be extended, to include the availability of email and fax submissions, to accommodate these deficiencies. The park planning website should also allow for general comments in addition to unit-specific comments. Further, the Commission requests that all future comment deadlines which fall on a weekend allow for email and fax submissions and that any submissions received the following business day be considered timely.

NON-ADHERENCE TO REGULATIONS GOVERNING ANILCA §1110 CLOSURES

Pursuant to section 1110(a) of the Alaska National Interest Lands Conservation Act (ANILCA), non-motorized means of surface transportation are allowed by law in Alaska parks and preserves for traditional activities and for travel to and from villages and homesites. This accommodation exists notwithstanding any other law and is subject to reasonable regulations to protect the natural and other values of the units. In accordance with both ANILCA and the regulations at 43 CFR 36.11(e) and (h), such means of surface transportation shall not be temporarily prohibited unless, after notice and hearing in the affected vicinity, such use is found to be detrimental to the resources values of the area.

The Commission is aware of two proposed changes to this year's compendiums which implicate the access provisions in ANILCA 1110(a): the prohibition on the use of domestic goats, sheep, llamas, alpacas or related animals in multiple units (to prevent disease transmission) and the prohibition on the use of bicycles in the Valley of 10,000 Smokes in Katmai National Park (to prevent soil damage). Both of these changes propose temporary closures to methods of non-motorized surface transportation and, to the Commission's knowledge, neither proposed change openly utilized the required closure process at 43 CFR 36.11(h).

Regarding notice and hearing in the affected vicinity, from the confusingly formatted notice on the Service's website, the Commission notes public hearings were scheduled to be held in Eagle, Denali Park, Nome, Bettles (?), Copper Center (?), Port Alsworth, Naknek, Kotzebue and via teleconference. However, no public hearings took place near, for example, Glacier Bay National Park, Kenai Fjords National Park, and Klondike Gold Rush National Park, even though domestic animal closures are proposed for those units. On that basis alone, notwithstanding other procedural or substantive deficiencies, the closure process at 43 CFR 36.11(h) was not followed.

The Commission is not generally opposed to the closure of uses shown to be detrimental to the area's resource values, where implemented consistent with the process outlined in ANILCA and corresponding regulations. However, since that was not done in this instance, the Commission requests the Service withdraw the proposed prohibitions on free ranging or use of domestic animals and bicycle use in the Valley of 10,000 Smokes until the regulatory process for such closures has been followed, as required under ANILCA §1110(a). Further, on satisfying the procedural requirements for such closures, the Commission recommends the Service highlight relevant ANILCA provisions and implementation for the public and conspicuously provide the required justification for these closures consistent with the letter and intent of those provisions.

PARK AND PRESERVE UNIT-SPECIFIC COMMENTS

NOTE: *Due to the noted limitations on comment submissions – namely, the decreased opportunity for comment submissions on February 15 requiring unit-by-unit uploads to the park planning website – the comments above will be submitted for all compendiums while comments below will only be submitted for the compendium at issue. This means a different comment letter was submitted for Katmai and for Glacier Bay than was submitted for the other compendiums.*

36 CFR 13.1206: Wildlife distance conditions

The Katmai National Park compendium proposes to add 10 weeks to the public entry closure at Brooks Falls (formerly June 15-August 15; proposed June 15-October 31). The Service provides little to no credible justification as to why an absolute prohibition is necessary to prevent negative or injurious human-bear interactions. No data were provided as to why such interactions specifically remain a concern from August 15 to October 31, such as relative distributions of bears, importance of this stream reach for feeding at that time (not just presence or absence of food), documented behavior changes, decreased rate of survival attributable to the presence of visitors, etc.

Further, no alternative methods to prevent such interactions are described or appear to have been attempted, such as education on hyperphagia, signage, staff presence, guided tours or less restrictive prohibitions (e.g., times of day) that do not completely deny access. The Commission appreciates that other opportunities for wildlife viewing exist during this time period, and that bears may benefit from areas consistently without visitors (though no data are provided), but questions whether the effect of more dispersed use, as compared to concentrating users in specific areas, was even considered.

36 CFR 13.25(a)(1): Temporary closure and restrictions to camping

The Commission appreciates that seasonal camping closures in Glacier Bay National Park, implemented in 1980 to minimize conflicts between campers and bears after a fatal mauling by a black bear, are proposed to be lifted. An open, grounded perspective and repeat studies to ascertain a continuing need for closures are paramount to making the compendium an effective tool for flexible and adaptive management.

Thank you for this opportunity to comment on the proposals. If you have any questions or concerns, please do not hesitate to inquire. Continuing and productive dialogue on these issues is welcome and appreciated.

Sincerely,

/s/ Sara Taylor
Executive Director

CC: Kip Knudson, Director of Federal/State Relations, D.C. Office of the Governor of Alaska
Mark Myers, Acting Commissioner, Alaska Dep't of Natural Resources
Sue Magee, Statewide ANILCA Coordinator, Alaska Dep't of Natural Resources