

National Park Service, Interior

§ 13.104

(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 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.

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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 as-

signed 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