



# United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.  
Washington, D.C. 20240

IN REPLY REFER TO:

MAY 19 2010

H32 (2560)

Dear Tribal Leader:

The National Park Service (NPS) is considering amending regulations presently codified in 36 CFR § 2.1 (c)-(d), which govern the gathering of natural resources in national park areas. Current NPS regulations date back to 1983. The NPS recognizes that Indian tribes view the continued access to and use of plants and other resources as critical to the continuity of their distinct cultures. It is now time to look at the specific provisions of the regulations in light of current legal mandates and policies to see if the needs of traditional Indian cultural practitioners might be met.

We would like to consider how the NPS might best cooperate with Indian tribes regarding any gathering that may take place as the result of a rule change.


I have asked the superintendents of selected parks where the gathering issue has arisen to invite representatives from Indian tribes with traditional associations to lands of those parks to consult on this matter. I welcome your attendance at a meeting to be scheduled by the park superintendent. Key staff from my office and the park will be present to hear your concerns.

These meetings will be used to initiate a formal process during which comments will be requested from tribes and from the public. Even if you are not able to attend a consultation meeting, there will be other opportunities for you to comment. Please contact Dr. Patricia Parker of my staff at 202-354-6962 or Pat\_Parker @nps.gov for further information.

Sincerely,

Jonathan B. Jarvis  
Director

National Park Service  
U.S. Department of the Interior  
American Indian Liaison Office



## Regulations Governing Gathering of Plants and Minerals

Tribal Consultation Meetings  
Summer 2010

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## Proposal for a Regulation Change

- Applies to federally recognized tribes
- Applies to traditionally associated tribes and traditional uses
- Authorizes designation of plants, plant parts and minerals that may be gathered for traditional uses subject to any needed compliance and additional data gathering
- Authorizes limiting quantity, location and times or seasons of gathering
- Envisions tribal-NPS agreements regarding limits and monitoring
- Does not apply to wildlife

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## Current NPS Regulation, 36 CFR 2, Resource Protection, Public Use and Recreation

- 1983
- 36 CFR 2.1 Preservation of natural, cultural and archeological resources

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## 2.1 (a) Prohibits

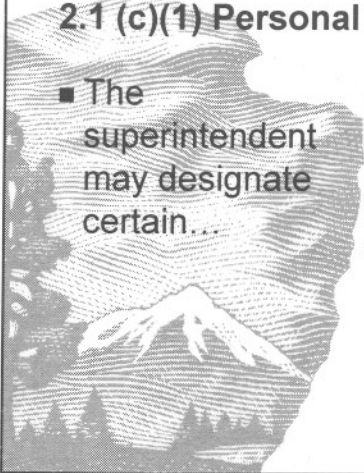
- Living or dead wildlife or fish and parts such as antlers or nests
- Plants or plant parts
- Paleontological and archeological resources
- Mineral resources
- wood\*

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### 2.1 (c)(1) Personal Use

- The superintendent may designate certain...
  - fruits
  - Nuts
  - berries
  - unoccupied seashells

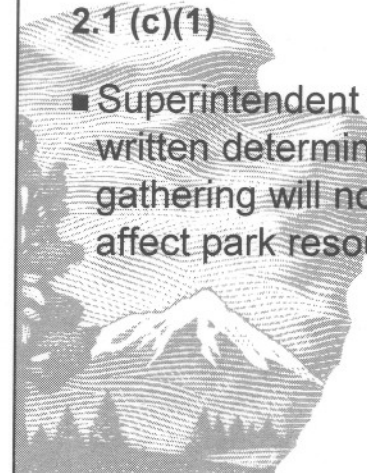


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### 2.1 (c)(1)

- Superintendent must make a written determination of that the gathering will not adversely affect park resources

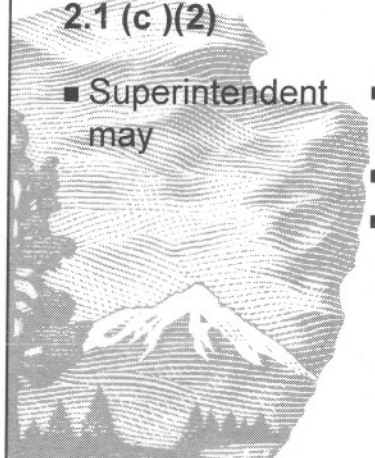


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### 2.1 (c)(2)

- Superintendent may
  - limit size and quantity
  - limit location
  - restrict possession & consumption to within the park

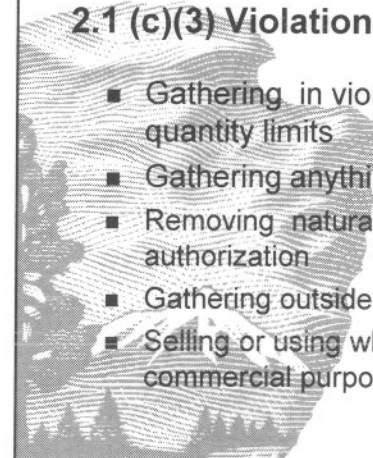


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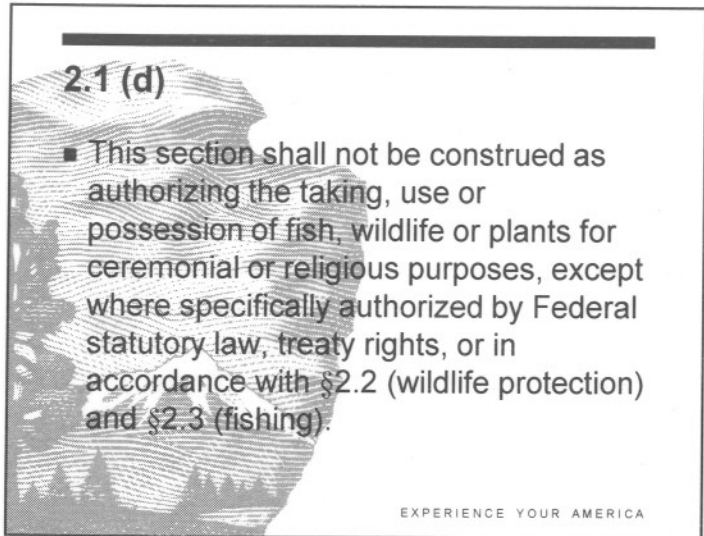
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### 2.1 (c)(3) Violations:

- Gathering in violation of size and quantity limits
- Gathering anything not designated
- Removing natural products without authorization
- Gathering outside designated areas
- Selling or using what is gathered for commercial purposes



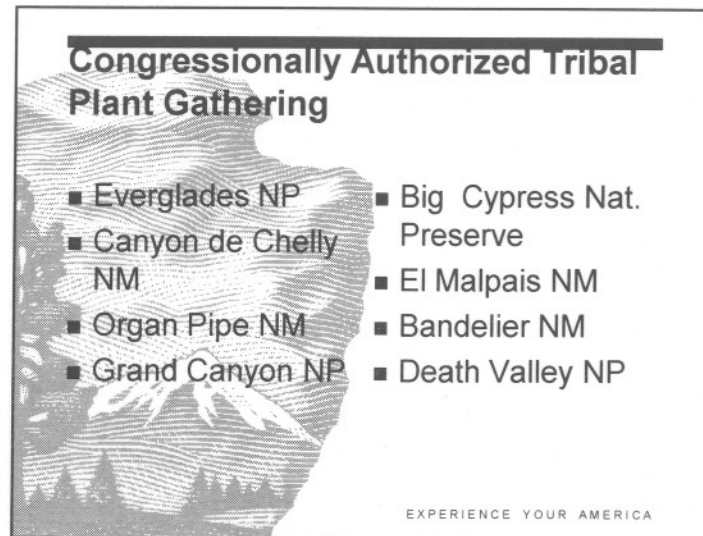
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**2.1 (d)**

- This section shall not be construed as authorizing the taking, use or possession of fish, wildlife or plants for ceremonial or religious purposes, except where specifically authorized by Federal statutory law, treaty rights, or in accordance with §2.2 (wildlife protection) and §2.3 (fishing).

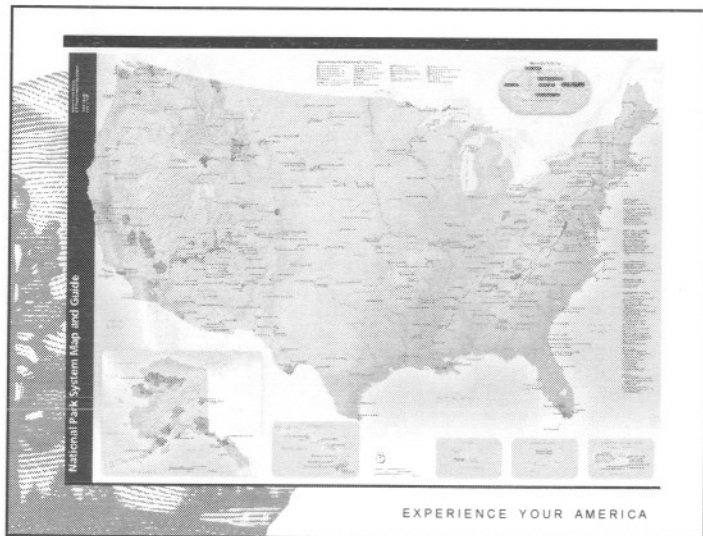
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**Congressionally Authorized Tribal Plant Gathering**

- Everglades NP
- Canyon de Chelly NM
- Organ Pipe NM
- Grand Canyon NP
- Big Cypress Nat. Preserve
- El Malpais NM
- Bandelier NM
- Death Valley NP

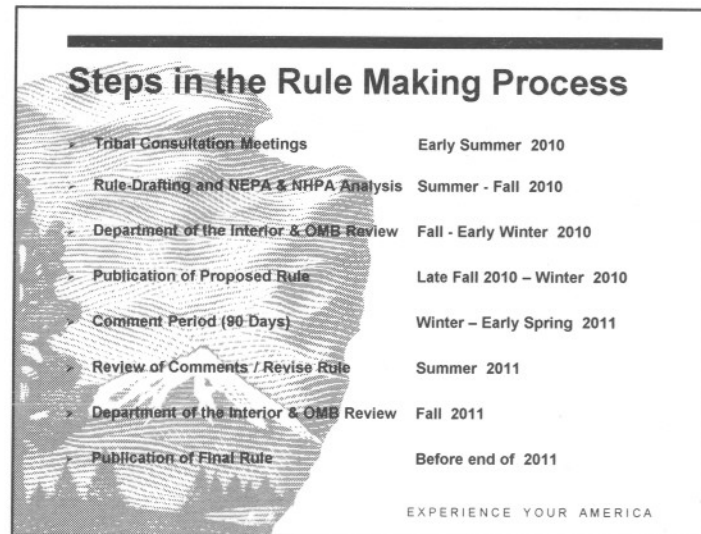
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**National Park System Map and Guide**



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**Steps in the Rule Making Process**

- Tribal Consultation Meetings Early Summer 2010
- Rule-Drafting and NEPA & NHPA Analysis Summer - Fall 2010
- Department of the Interior & OMB Review Fall - Early Winter 2010
- Publication of Proposed Rule Late Fall 2010 – Winter 2010
- Comment Period (90 Days) Winter – Early Spring 2011
- Review of Comments / Revise Rule Summer 2011
- Department of the Interior & OMB Review Fall 2011
- Publication of Final Rule Before end of 2011

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