



United South and Eastern Tribes, Inc.

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[Regulations.gov](http://www.Regulations.gov)

July 20, 2015

Mr. Joe Watkins
National Park Service
Office of Tribal Relations and American Cultures
1201 Eye Street NW
Washington, DC 20005

Re: Comments on National Park Service Proposed Rule 36 CFR Part 2, RIN 1024-AD84

Dear Mr. Watkins,

On behalf of the United South and Eastern Tribes, Inc. (USET), we are pleased to submit comments regarding the National Park Service proposed regulation, Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes, 36 CFR Part 2. USET commends the National Park Service (NPS) for promulgating these regulations to permit the gathering and removal of traditional plants or plant parts that have been prohibited since 1983 when the original 36 CFR Part 2 was implemented. USET further commends the NPS for consulting with USET member Tribes during the Semi-Annual Meeting held at Bar Harbor, Maine in June 2014. USET is an intertribal organization comprised of twenty-six (26) federally recognized Tribes, ranging from Maine to Florida to Texas¹. Since its incorporation more than 45 years ago, USET has placed emphasis on the conservation, protection and preservation of the environment, and the overall health and wellbeing of Tribal communities.

Overall, USET is supportive of the concept of removing the existing prohibitions on the taking, use, or possession of plants or plant parts through agreements that would be executed between NPS and an Indian Tribe. These proposed rule changes would provide explicit authorization for written agreements, establish uniform practices across the NPS units; and would prevent future criminal citations for USET member Tribes and their members for gathering plants and other natural resources in NPS units. Moreover, in keeping with the NPS efforts to consult with Tribes and to conduct such consultations on a government-to-government basis, we offer comments that would strengthen the government-to-government relationships; and ultimately lead to fulfillment of the central

¹ USET member Tribes include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

purpose of the proposed rule: “to support the continuation of Indian cultural traditions on lands that are now administered as units of the National Park system.”

In the proposed rule, the NPS would authorize agreements between NPS and Indian Tribes to allow and regulate Tribal gathering and removal of plants for traditional purposes in park units. In general, this would seem to be appropriate; however, the proposed rule would require Tribes and their members to obtain a separate permit from the NPS for each gathering action. Such a permitting process would be burdensome and inconsistent with the government-to-government principles of the agreement process. **USET recommends that the NPS recognize and authorize participating Tribal governments to take responsibility for designating which Tribal members would be allowed to gather in specific national park units in accordance with the terms and conditions of an agreement.** Adopting this approach would facilitate the incorporation of traditional ecological knowledge, and encourage each participating Tribe to provide oversight that would contribute to the vitality and sustainability of ecosystems in national park units. Tribes are interested in jointly developing park specific plant gathering management plans to ensure the long-term health of any park resources that may be gathered. The NPS has acknowledged based on its own research that traditional gathering methods, and in traditionally established quantities, not only conserves plant communities but joint management of plant resources by NPS and Tribes is consistent with the preservation of national park lands for all American people.

USET further recommends that NPS also include authorization in the proposed rule for Tribes to gather minerals that have traditionally been used for religious purposes, artistic endeavors, and personal consumption. Such gathering would be consistent with a participating Tribes cultural practices, and would occur in locations as authorized by the NPS. Tribes have expressed willingness to accept limitations on gathering of certain park resources, and that such gathering would be specific to each participating tribe. The NPS and Tribes would define terms and conditions in a site specific agreement. **Additionally, we recommend that NPS allow for minor commercial use of natural resources in agreements with Tribes. Tribal members often use plants, plant parts, or other natural resources gathered from NPS units in craft items that are sometimes offered for sale.** Allowing for minor commercial use would promote Tribal tradition and culture, and allow park visitors to learn about Tribal artistic cultures.

Tribes have expressed concerns about the protection of information concerning religious and cultural practices, and locations of certain resources within park units that are significant to Tribal cultural traditions. The NPS has authority to protect from public disclosure the location, character, or ownership of historic property if such disclosure would cause significant invasion of privacy, risk harm to historic property, or impede the use of a traditional religious site by practitioners. (54 USC Sec. 307103). **USET recommends that NPS establish provisions that would protect from public disclosure the location and use of natural resources that Tribes may gather from park units.**

The proposed rule would require that environmental reviews and studies to be undertaken, as needed, prior to entering into agreements with Tribes for gathering in national park units. This requirement for NEPA environmental impact analyses would be a significant barrier to the NPS and Tribes entering into agreements, and would place Tribes at a disadvantage and possibly lead to public disclosure of culturally significant resource information. **USET recommends that NPS treat agreements covering minor gathering activities as categorical exclusions under NEPA.**

The NPS proposed rule would overcome restrictions that have impeded Tribal cultural traditions and practices; and would promote co-management approaches to conserve ecosystems of the national park lands across the country. Removing restrictions to gathering and removing plants or plant parts, and other natural resources from national park lands would provide opportunities to NPS and Tribes to build collaborative stewardship strategies

that would ensure there are no significant impacts to park resources, and thereby leaving national park units unimpaired for future generations. USET urges NPS to adopt the outlined recommendations to help Tribes maintain their cultural traditions and relationships with certain national park lands and natural resources. These recommendations would also be more broadly consistent with the aspirations of the United States to improve relationships with indigenous peoples, as articulated in the U.N. Declaration on the Rights of Indigenous Peoples.

In closing, USET is pleased to provide recommendations to the National Park Service, and is committed to support the NPS as it moves forward with these much needed proposed changes. We commend the agency for its consultation with Tribes across the country, and for proposing regulations that recognize the historical, cultural, and spiritual relationships that Indian Tribes have with park lands and resources. Should you have questions or require additional information please do not hesitate to contact Ms. Liz Malerba, USET Director of Policy and Legislative Affairs, at (202)-624-3550 or by e-mail at Lmalerba@usetinc.org.

Sincerely,



Brian Patterson
President



Kitcki A. Carroll
Executive Director

CC: USET member Tribes

Wanda Janes, USET Deputy Director

Jerry Pardilla, Director, USET Office of Environmental Resource Management

"Because there is strength in Unity"