



Tribal Plant Gathering

Tribal Consultation June 2023

Plant Gathering Regulation Overview

- The regulation at [36 CFR 2.6](#) went into effect in 2016.
- The regulation allows the National Park Service to enter into agreements with federally recognized Tribes that wish to gather plants or plant parts from a park unit for traditional purposes.



Plant Gathering Regulation Overview

- NPS currently has three agreements for plant collection:
 - Saguaro NP and the Tohono O'odham Nation (2018)
 - Great Smoky Mountains NP and the Eastern Band of Cherokee Indians (2019)
 - Buffalo NR and the Cherokee Nation (2019/2022)
- A fourth agreement will be finalized soon between Indiana Dunes NP and the Pokagon Band of Potawatomi.



Plant Gathering Regulation Overview

- The regulation allows the gathering of plants or plant parts when the gathering meets a traditional purpose.
- Treaty rights for plant gathering take precedent over new requests for plant gathering under the regulation.
- The regulation does not apply to fish, wildlife or minerals or to threatened or endangered plants.
- Gathering is for traditional use and the sale or commercial use of plants or plant parts within the park is prohibited.

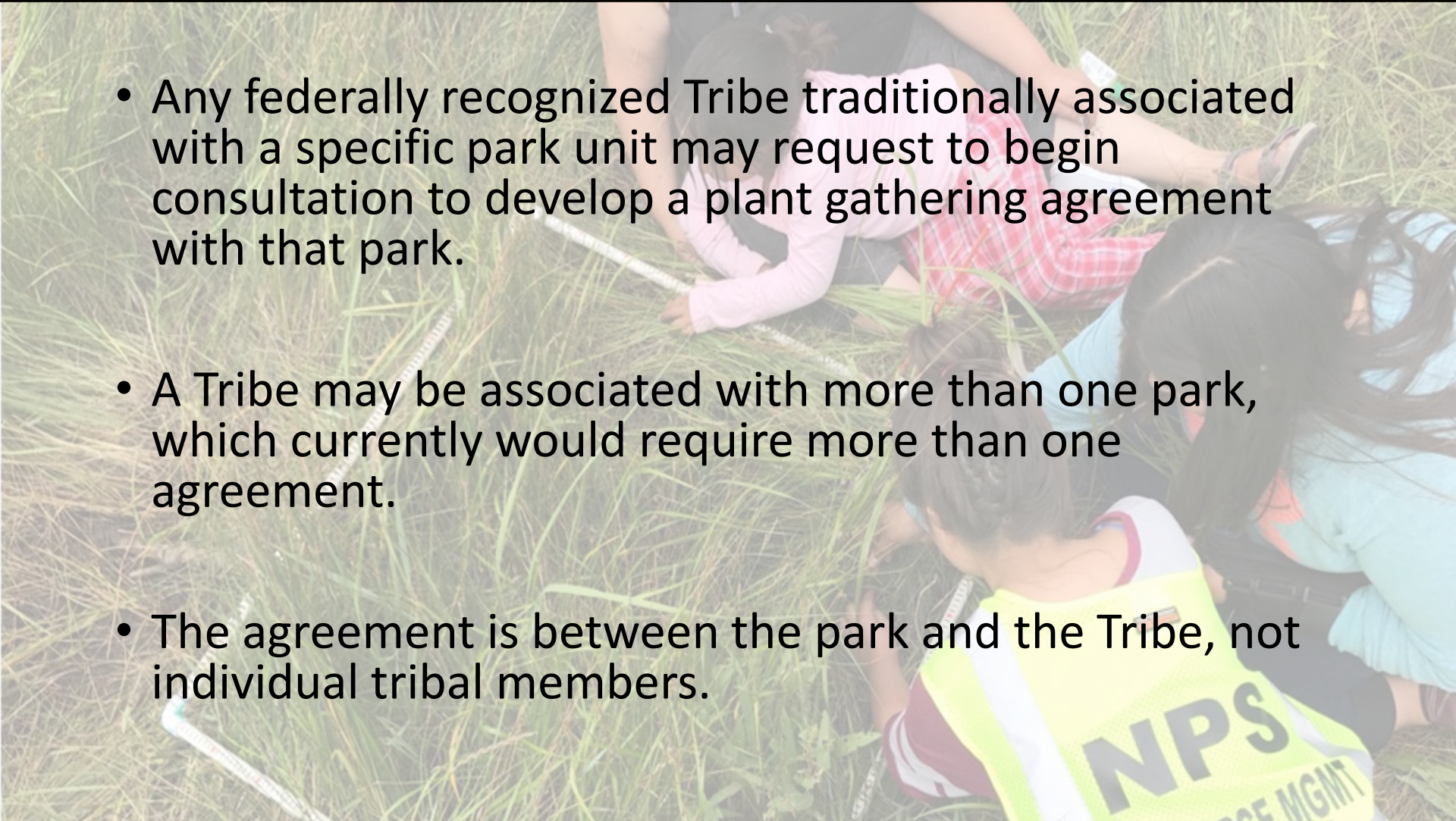
Plant Gathering Regulation Overview

Gathering, possession, or removal of plants or plant parts from a park unit *is prohibited unless* specifically authorized by:

- Treaty rights to gather plants
- Federal statute allowing plant gathering
- Existing CFR regulations [such as fruits, nuts, berries, gathered by hand for personal use or consumption, or collecting for scientific purposes] that are not limited to tribes
- The terms and conditions of a plant gathering agreement and permit issued under this rule for traditional purposes.

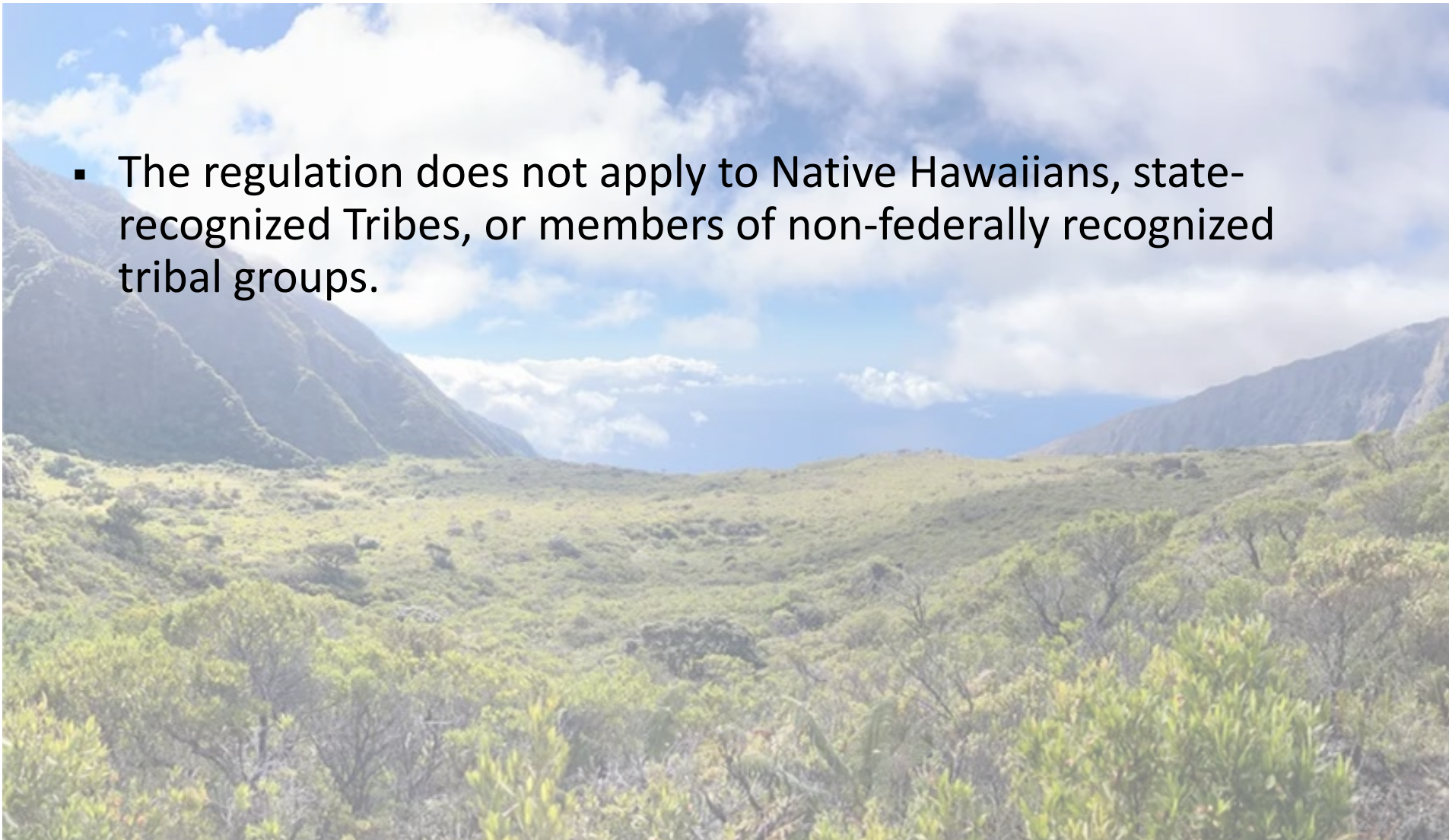
Who is Eligible?

- Any federally recognized Tribe traditionally associated with a specific park unit may request to begin consultation to develop a plant gathering agreement with that park.
- A Tribe may be associated with more than one park, which currently would require more than one agreement.
- The agreement is between the park and the Tribe, not individual tribal members.



Who is Eligible?

- The regulation does not apply to Native Hawaiians, state-recognized Tribes, or members of non-federally recognized tribal groups.



Who is Eligible?

- In many of the National Park System units in Alaska, [36 CFR 13.35](#) regulates the gathering and collection of natural products and allows for the limited gathering of a wider range of natural products than are included in this rule. This rule has no practical effect within these units.
- The plant gathering regulation [applies to only four park units in Alaska](#): Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park (now Denali National Park & Preserve), and the former Katmai National Monument (now Katmai National Park & Preserve).
- This rule does not address subsistence activities that are authorized in Alaska by [36 CFR 13.400-13.495](#).

Current Process – Step 1

- Tribes submit a **written request** to initiate the process to enter into an agreement.
- Requests must include:
 - a description of the Tribe's traditional association to the park area
 - a statement about the traditional purposes to which traditional gathering activities will relate
 - a description of the methods of the gathering activity and a list of plants or plant parts that tribal members wish to gather

Current Process – Step 2

- Once the park and tribal leadership agree to **develop a plant gathering agreement**, the process should co-develop the following information for the agreement:
 - The information provided in the tribal request (traditional association to the park area, statement about traditional gathering, a description of gathering methods and a list of plants)
 - A means to identify tribal members who are designated to gather plants or plant parts under the agreement and special use permit
 - Limits on the size, quantities, seasons or locations where gathering may take place
 - Monitoring protocols for plant resources and thresholds for intervention
 - Any special conditions unique to the park area or tribal tradition

Current Process – Step 3

- The information developed for the plant gathering agreement shall also be used by the NPS to complete a required **Environmental Assessment (EA)** that must result in a **Finding of No Significant Impact (FONSI)**.
- Gathering of any species listed as threatened or endangered under the Endangered Species Act is prohibited.
- Signatures: Once the EA and FONSI are complete, the agreement is signed by the tribal leader and the park superintendent, with the concurrence of the regional director.

Current Process – Step 4

- Plant gathering agreements have a maximum duration of five years and can be renewed.
- The park issues a **special use permit** to the Tribe to implement the activities outlined in the agreement.
- The permit will provide a means to identify tribal members the Tribe has authorized to collect under the agreement.
- The Tribe and the park should meet annually to discuss any updates needed; the permit may be issued for the life of the agreement.
- Out-of-park activities (such as sale of traditional crafts made by plant material) are not regulated by the National Park Service.

Questions to Consider

1. How can the National Park Service improve its cooperation and coordination with Tribes in respect to the gathering of plants or plant parts on lands managed by the NPS?
2. What experiences or concerns do you have regarding the process outlined for requesting to enter a plant gathering agreement (36 CFR § 2.6(c))?
3. What experiences or concerns do you have regarding the requirements for entering into a plant gathering agreement (36 CFR § 2.6(d))?
4. What experiences or concerns do you have with existing requirements for the content of a plant gathering agreement (36 CFR § 2.6(f))?
5. What experiences or concerns do you have with the implementation, suspension, termination, or appeal process associated with a plant gathering agreement (36 CFR § 2.6 (f-k))?
6. What experiences or concerns do you have with alternative approaches to 36 CFR § 2.6 for the NPS to coordinate or cooperate with Tribes in respect to the gathering of plants or plant parts on lands managed by the NPS?

Questions to Consider - Hawaii

1. How can the NPS improve its cooperation and coordination with Native Hawaiians in respect to the gathering of plants or plant parts on lands managed by the NPS?
2. Do you believe that the process outlined for requesting to enter a plant gathering agreement in 36 CFR § 2.6(c) would be a workable approach in Hawaii?
3. Do you believe that the requirements for entering into a plant gathering agreement in 36 CFR § 2.6(d) would be a workable approach in Hawaii?
4. Do you believe that the requirements for the content of a plant gathering agreement in 36 CFR § 2.6(f) would be a workable approach in Hawaii?
5. Do you believe that the implementation, suspension, termination, and appeal process associated with plant gathering agreements in 36 CFR § 2.6(f-k) would be a workable approach in Hawaii?
6. What experiences or concerns do you have with alternative approaches to 36 CFR § 2.6 for the NPS to coordinate and cooperate with Native Hawaiians in respect to the gathering of plants or plant parts on lands managed by the NPS?

Resources

- Visit the National Park Service Office of Native American Affairs website at nps.gov/onaa

or

- Visit the “[Tribal Plant Gathering in National Parks Tribal Consultation](#)” page for the following resources:
 - Tribal Consultation Briefing Statement
 - Tribal Leaders Guide to the National Park Service Plant Gathering Regulation
 - Dear Tribal Leader letters
 - A copy of this slide deck at the conclusion of consultation

Consultation Schedule

- **Native Hawaiian Communities**

Wednesday, June 21, 2023

- **Alaska Native Tribes**

Thursday, June 22, 2023

- **Tribes in the Continental U.S.**

Friday, June 23, 2023

Comments

- Email your comments to the Office of Native American Affairs at: onaa_program@nps.gov
- You may also mail comments to: Plant Gathering Comments, National Park Service, 1849 C St, NW, Mail Stop 7360, Washington DC, 20240.
- We request that comments are received by the Office of Native American Affairs by **July 31, 2023**.



Questions & Discussion



Office of Native American Affairs
&
Office of Tribal Relations and American Cultures
www.nps.gov/onaa



National Park Service
U.S. Department of the Interior