

### Federalism

The Department has considered this final rule under the requirements of Executive Order 13132 on federalism and has determined that the rule conforms with the federalism principles set out in this Executive Order; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. No further consultation with State governments is necessary upon adoption of this final rule.

### No Takings Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the final rule does not pose a risk of a taking.

### Civil Justice Reform

This final rule has been reviewed under Executive Order 12988 on civil justice reform. Upon adoption of this final rule, (1) all State and local laws and regulations that are in conflict with this final rule or that will impede its full implementation will be preempted; (2) no retroactive effect will be given to this final rule; and (3) this final rule does not require administrative proceedings before parties may file suit in court challenging its provisions.

### Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this final rule on State, local, and tribal governments and the private sector. This rule does not compel the expenditure of \$100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

### Energy Effects

This final rule has been reviewed under Executive Order 13211 of May 18, 2001, “Actions Concerning Regulations That Significantly Affect Energy Supply.” It has been determined that this final rule will not have an adverse effect on the supply, distribution, and use of energy.

### Consultation With Tribal Governments

This final rule has been reviewed under Executive Order 13175 of

November 6, 2000, “Consultation and Coordination with Indian Tribal Governments.” It has been determined that this final rule does not implicate the consultation provisions of that Executive order. Native corporations are not Indian tribes. Providing a preference for certain providers of visitor services in CSUs in Alaska does not directly affect Indian tribes or the relationship between the Federal government and the tribes in the State of Alaska.

### Controlling Paperwork Burdens on the Public

The information requirements associated with implementation of this regulation were set out in the proposed rule. No comments were received concerning information requirements associated with this rule.

The information collection required to determine which Alaska Native Corporations qualify for the statutory preference in the award of competitively issued special use authorizations for commercial visitor services on designated lands within the National Forests in Alaska is currently covered under the information requirements in subpart B of this part, which are assigned OMB control number 0596–0082.

### List of Subjects in 36 CFR Part 251

Administrative practice and procedure, Electric power, National forests, Public lands—rights-of-way, Reporting and record-keeping requirements, and Water resources.

■ Therefore, for the reasons set forth in the preamble, amend part 251 of Title 36 of the Code of Federal Regulations by adding a new subpart E to read as follows:

### PART 251—LAND USES

#### Subpart E—Revenue-Producing Visitor Services in Alaska

Sec.

- 251.120 Applicability and scope.
- 251.121 Definitions.
- 251.122 Historical operator special use authorizations.
- 251.123 Most directly affected Native Corporation determination.
- 251.124 Preferred operator competitive special use authorization procedures.
- 251.125 Preferred operator privileges and limitations.
- 251.126 Appeals.

#### Subpart E—Revenue-Producing Visitor Services in Alaska

Authority: 16 U.S.C. 3197.

### § 251.120 Applicability and scope.

(a) These regulations implement section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3197) with regard to the continuation of visitor services offered as of January 1, 1979, and the granting of a preference to local residents and certain Native Corporations to obtain special use authorizations for visitor services provided on National Forest System lands within Conservation System Units of the Tongass and Chugach National Forests in Alaska.

(b) Except as may be specifically provided in this subpart, the regulations at subpart B shall apply to special use authorizations issued under this subpart. However, if subpart B conflicts with subpart E, subpart E controls.

(c) This subpart does not apply to the guiding of sport hunting and fishing.

### § 251.121 Definitions.

In addition to the definitions in subpart B of this part, the following terms apply to this subpart:

**Best application**—the application, as determined by the authorized officer, that best meets the evaluation criteria contained in a prospectus to solicit visitor services.

**Conservation System Unit (CSU) as it relates to the Tongass and Chugach National Forests in Alaska**—a National Forest Monument or any unit of the National Wild and Scenic Rivers System, National Trails System, or National Wilderness Preservation System, including existing units and any such unit established, designated, or expanded hereafter.

**Controlling interest**—in the case of a corporation, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation. In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity. In other circumstances, any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

**Historical operator**—a holder of a valid special use authorization to provide visitor services in a CSU under Forest Service jurisdiction who: