Compliance With Other Laws

This rule was reviewed under Executive Order 12866 and the Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The economic effects of this rulemaking are local in nature and negligible in scope.

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) further requires the preparation of flexibility analysis for rules that will have a significant effect on a substantial number of small entities, that include small businesses, organizations or governmental jurisdictions. Local visitor service providers, exercising their right under Section 1307(b) of ANILCA, will benefit more than companies without the preference. This preference will have a positive impact on the local areas by increasing the economic base of these communities. This impact, while important in relation to the total economic level of the local area, is very small in actual dollar value. Therefore, this rule would have no "significant" economic impact on the local communities or local governmental

entities. The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the human environmental health and safety because it is not expected to:

- (a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage
- (b) Introduce incompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;
- (c) Conflict with adjacent ownerships of land uses: or
- (d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an **Environmental Impact Statement has** been prepared.

List of Subjects in 36 CFR Part 13

Alaska national parks, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Title 36, Chapter I, Part 13 of the Code of Federal Regulations is proposed to be amended as follows:

PART 13—NATIONAL PARK SYSTEM **UNITS IN ALASKA**

1. The authority citation for part 13 is revised to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 et seq.; subpart D also issued under 16 U.S.C. 20, 3197; § 13.65(b) also issued under 16 U.S.C. 1361, 1531.

2. In § 13.2, paragraph (e) is redesignated as paragraph (f), and a new paragraph (e) is added to read as follows:

§13.2 Applicability and scope.

(e) Subpart D of this Part 13 contains regulations applicable to authorized visitor service providers operating within certain park areas. The regulations in subpart D of this part amend in part the general regulations contained in this chapter.

* 3. In part 13, a new Subpart D is added to read as follows:

Subpart D—Special Concessions Regulations; Visitor Services

*

Sec.

13.80 Applicability and scope.

13.81 Definitions.

13.82 Visitor services existing on or before January 1, 1979 (historical operators).

13.83 Visitor services authorized after January 1, 1979 (preferred operators).

13.84 Preference granted to Cook Inlet Region, Incorporated. 13.85 Most directly affected Native

corporation.

13.86 Appeal procedures.

13.87 Information collection. [Reserved]

Subpart D—Special Concessions **Regulations**; Visitor Services

§13.80 Applicability and scope.

- (a) Except as otherwise provided for in this section, the regulations contained in this part apply to visitor services provided within all park areas in Alaska.
- (b) The rights or preferences granted by this subpart to historical operators, preferred operators, and Cook Inlet Region, Incorporated are not exclusive. The Director may authorize other persons to provide visitor services on park lands.

§13.81 Definitions.

The following definitions shall apply to this subpart:

- (a) Director means the Director of the National Park Service or an authorized representative.
- (b) Controlling interest means, 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 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.

"Controlling interest" in the case of a partnership, limited partnership, joint venture or individual entrepreneurship, means 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, "controlling interest" means any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

- (c) Historical operator means any person who:
- (1) On or before January 1, 1979, was lawfully engaged in adequately providing any type of visitor service in a park area within the scope of § 13.82;
- (2) Has continued to provide that visitor service without a break in the service for more than eleven continuous months; and
- (3) Is otherwise determined by the Director to have a right to continue to provide such services or similar services pursuant to § 13.82.
- (d) Local area means that area in Alaska within the park boundary, as well as the area within 35 straight-line miles of a park boundary, but excluding communities with a population in excess of 5,000 persons.
 - (e) Local resident means:
- (1) For individuals that operate a business as a sole proprietorship or partnership. Those individuals that maintain a primary, permanent residence and business within the local area and whenever absent from this primary, permanent residence, have the intention of returning to it. Factors demonstrating the location of an individual's primary, permanent residence and business may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska, Department of Fish and Game, tax returns, and voter registrations.
- (2) For corporations. A corporation that maintains its headquarters within the local area, and all of the stockholders, who own a controlling interest in the corporation, qualify as individual local residents under this section.
- (f) Native Corporation means the same as defined in section 102(6) of ANILCA.
- (g) Preferred operator means a local resident or Native Corporation that is entitled to a preference under this subpart in the award of visitor service authorizations as provided under section 1307(b) of ANILCA.