

providing expedited suspension procedures where harm or damage to resources or to people is imminent or is occurring. These and the other provisions of the proposed rule would enable the Forest Service to administer mineral operations in the SRNRA consistent with the purposes for which the area was established.

#### **Section-by-Section Explanation of the Proposed Rule**

This proposed rule would establish a new subpart G, Smith River National Recreation Area, in part 292 of Title 36 of the Code of Federal Regulations. A section-by-section explanation of the proposed rule follows.

##### *Section 292.60, Purpose and scope.*

Paragraph (a) of the proposed § 292.60 explains that the purpose of this rule is to establish the rules and procedures for regulating mineral operations on National Forest System lands in the SRNRA so that they are in conformance with the Act. Paragraph (b) explains that rules and procedures in this rule apply only to National Forest System lands in the SRNRA. Paragraph (c) notes that this rule supplements existing Forest Service mineral regulations and that mineral operations on National Forest System lands in the SRNRA will continue to be subject to other applicable regulations governing these activities, particularly parts 228, 251, and 261 of this chapter. Paragraph (d) provides that, to the extent provided by law, the provisions of this rule shall take precedence over the provisions of other applicable regulations if there is a conflict or inconsistency between them. Finally, the last paragraph states that mineral operations approved or determined to be acceptable before the effective date of this proposed rule would continue to operate under the conditions of approval or acceptability including the specified period of operations. While there are no known operations at the time of publication of this proposed rule, that could change by the time of adoption of a final rule; thus, a transitional provision is needed.

*Section 292.61, Definitions.* This section defines special terms used in the proposed rule, some of which have been previously established or used in other rules or directives. However, the definitions included in the proposed § 292.61 define the terms as they are used in the proposed rule.

*Section 292.62, Plan of operations requirements.* Proposed § 292.62(a) would reduce the amount of discretion that the authorized officer currently has under 36 CFR 228.4(a) in determining whether a plan of operations or a notice of intent is required for a proposed

mineral operation. In addition to the requirements of 36 CFR 228.4 for submitting a plan of operations or a notice of intent, this proposed rule would require a plan of operations for some mineral operations that in other locations have been routinely conducted under a notice of intent. For example, to operate mechanical or mechanized equipment such as a suction dredge and sluice under the proposed rule would require a plan of operations. Given the special status of the SRNRA and the special statutory management direction for the area set by Congress, further regulation of these kinds of operations is necessary in order to maintain the resource values which prompted its designation.

The information requirements specified in proposed § 292.62(b) are the same information that has been routinely gathered by the Forest Service from Bureau of Land Management records, county records, and the operator when a plan of operations is submitted for an area withdrawn from disposition under the General Mining Laws. The burden of gathering this information is now being shifted from the Forest Service to the operator since this information should be readily available to the operator if it does exist. The requirement to have the operator submit this information as part of the plan of operations should decrease the cost and the amount of time it takes for the Forest Service to collect the information, and, thereby, to make a valid existing rights determination.

Proposed § 292.62(c) outlines the minimum operating elements that must be included in a plan of operations in the SRNRA. The information requirements found at 36 CFR 228.4(c) and 228.8 that are generally applicable for a plan of operations on National Forest System lands are also applicable to a plan of operations proposed within the SRNRA. In addition to these specific information requirements, this proposed rule for the SRNRA would require an operator, who is not the claim owner, to submit a copy of the authorization granting the operator permission to conduct operations on a mining claim owned by another party. The existing regulations at 36 CFR 228.8(g) allow the authorized officer several options as to when reclamation activities can occur. These activities can take place upon depletion of the mineral deposit or sometime during the operation when it is practicable or within 1 year after the operations have concluded, unless the authorized officer allows for a longer time. In contrast, reclamation activities for mineral operations under the proposed rule would occur concurrently

with the mineral operations whenever practicable. A requirement for concurrent reclamation would restore the land to another useful productivity in the shortest possible time. This requirement is essential to meet the statutory requirements to protect and preserve the values of the SRNRA.

##### *Section 292.63, Plan of operations.*

Proposed § 292.63 establishes the procedures by which a plan of operation for mineral operations on mining claims in the SRNRA would be processed.

Proposed § 292.63(a) explains that the first item considered by the authorized officer is whether the operator has furnished the information required by § 292.62(b) to help substantiate valid existing rights. For reasons of efficiency, it is logical for the authorized officer to first determine whether the operator has discovered a valuable ore deposit before undertaking a review of that part of the plan of operations which describes in detail how the deposit is to be developed. Following the initial review, the authorized officer must notify the operator in writing whether the information required in § 292.62(b) has been provided or whether additional information still needs to be provided. Once the information required by § 292.62(b) has been provided, the authorized officer notifies the operator when the valid existing rights determination is expected to be completed.

Proposed § 292.63(b) explains that if the determination finds valid existing rights have not been established, the authorized officer must notify the operator of the determination, the reasons for such a determination, and that the development activities as contemplated in the plan of operations cannot be conducted.

Proposed § 292.63(c) explains that if the determination finds valid existing rights have been established, the authorized officer notifies the operator that this determination has been made and that the Forest Service is beginning a review of the proposed plan of operations and specifies the date when the Forest Service expects to complete the review.

Proposed § 292.63(d) directs that upon completion of the review of that part of the plan of operations that contains the operational and reclamation elements specified in proposed § 292.62(c), the authorized officer must notify the operator in writing the results of the review as specified in § 228.5(a).

Proposed § 292.63(e) would limit the maximum period for which a plan of operations is approved to five years; for operations beyond 5 years, the operator