

incurred by the Forest Service or other agencies resulting from noncompliance with an approved plan of operations or an agreed to operating plan.

Operators have not had to bear any of the costs incurred by the Forest Service to administer mineral projects on National Forest System lands even if operations were not being conducted under the conditions approved or agreed upon. Proposed § 292.68(c) would require those operators who do not abide by the conditions of an approved plan of operations or agreed upon operating plan to pay the costs incurred by the Forest Service resulting from noncompliance. It is believed that if an operator was required to reimburse the Forest Service for the costs incurred by the Forest Service resulting from noncompliance, there would be less noncompliance.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this regulation is not a significant rule. This rule will not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed rule is not subject to OMB review under Executive Order 12866.

Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act because of its limited scope and application. Also, this proposed rule does not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in local or foreign markets.

Environmental Impact

Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The

agency's preliminary assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made simultaneously with adoption of the final rule.

Controlling Paperwork Burdens on the Public

Section 292.62(b) of this proposed rule specifies that in addition to the requirements of § 228.4, an operator must provide information to support valid existing rights as part of a plan of operations. Also, proposed § 292.65(b) requires those who wish to exercise outstanding mineral rights to submit an operating plan. The provisions of the proposed rule applicable to locatable minerals are supplementary to the existing information required by 36 CFR 228.4 which still apply for plans of operations. The provisions of the proposed rule applicable to outstanding mineral rights represent new information requirements as defined in 5 CFR part 1320, Controlling Paperwork Burdens on the Public. Although the proposed rule requires the operator to submit more information with a plan of operations than applies under part 228, subpart A, the information is readily available to the operator and does not require additional effort or information that the operator does not already have to acquire to conduct operations.

In accordance with the rules of 5 CFR part 1320 and the Paperwork Reduction Act of 1980 as amended (44 U.S.C. 3507), the Forest Service is requesting Office of Management and Budget review and approval of the information required to be addressed in a plan of operations or an operating plan. The agency estimates that an operator preparing a plan of operations will spend an average of 2 hours gathering and submitting the information related to valid existing rights and another 2 hours preparing and submitting the minimal information on the proposed operation for Forest Service review and approval. The agency also estimates that an operator preparing an operating plan will spend an average of 2 hours gathering and submitting the information related to outstanding mineral rights and the operation itself for acceptability. Reviewers who wish to comment on these information requirements should submit their views to the Chief of the Forest Service at the address listed earlier in this document as well as to the: Forest Service Desk Officer, Office of Information and Regulatory Affairs, Office of

Management and Budget, Washington, DC 20503.

No Takings Implications

In compliance with Executive Order 12630 and the Attorney General's Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings, the takings implication of this proposed rule have been reviewed and considered. It has been determined that there is no risk of a taking.

Civil Justice Reform Act

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule were adopted, (1) all State and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; (3) it would not require administrative proceedings before parties could file suit in court challenging its provisions.

List of Subjects in Part 292

Administrative practice and procedure, Environmental protection, Mineral resources, National forests, National recreation areas, and Surety bonds.

Therefore, for the reasons set forth in the preamble, it is proposed to amend part 292 of chapter II of title 36 of the Code of Federal Regulations by adding a new subpart G to read as follows:

PART 292—NATIONAL RECREATION AREAS

Subpart G—Smith River National Recreation Area

Sec.

292.60 Purpose and scope.

292.61 Definitions.

Valid Existing Rights

292.62 Plan of operations supplementary requirements.

292.63 Plan of operations approval.

292.64 Plan of operations suspension.

Outstanding Mineral Rights

292.65 Operating plan requirements.

292.66 Operating plan acceptance.

Mineral Materials

292.67 Mineral material operations.

Indemnification

292.68 Indemnification.

Subpart G—Smith River National Recreation Area

Authority: 16 U.S.C. 460bbb et seq.

§ 292.60 Purpose and scope.

(a) *Purpose.* The regulations of this subpart set forth the rules and