

considered breached; the authorized officer will terminate the contract, and all previous payments will be forfeited without prejudice to any other rights and remedies of the United States. Forfeiture will not result when the purchaser is unable to meet the minimum annual production (volume or value) for reasons beyond the purchaser's control.

(5) In order to determine payment amount, the purchaser must make a report of operations. The report must include the amount of mineral material removed, which must be verified by the authorized officer.

(c) *Deferred payments.* The authorized officer may approve deferred payments for sales.

(1) The purchaser may make payments monthly or quarterly which must be based on the in-place value (volume or weight equivalent) of material removed during the contract period. The units of measurement must correspond to the units used in the appraisal. The purchaser must make all payments before contract renewal.

(2) The purchaser must deliver a bond which conforms to the provisions of § 228.51(a)(2) to the authorized officer before operations are begun under the contract.

§ 228.66 Refunds.

Upon termination of any contract, payments in excess of \$10 may be refunded, less the costs incurred by the United States, under any of the following conditions:

(a) *Payment in excess of value.* If the total payment exceeds the value of the mineral material removed, unless it is the minimum annual payment in lieu of production;

(b) *Insufficiency of material.* If insufficient mineral material existed in the sale area to provide the quantity of material estimated to have been available;

(c) *Termination.* (1) If the contract is terminated by the authorized officer for reasons which are beyond the purchaser's control; or

(2) If the contract is terminated by mutual agreement. This refund provision is not a warranty that a specific quantity of material exists in the sale area.

§ 228.67 Information collection requirements.

(a) The following sections of this subpart contain information collection requirements as defined in the Paperwork Reduction Act of 1980 (5 CFR part 1320): § 228.45, Qualifications of applicants; § 228.51, Bonding; § 228.52(b)(1), Requirements of assignee; § 228.53(b), Extension of time; § 228.56, Operating plans; § 228.57(c), Conduct of sales; § 228.60, Prospecting permits; § 228.61, Preference right negotiated sales; and § 228.62, Free use. These requirements have been approved by the Office of Management and Budget and assigned clearance number 0596-0081.

(b) The public reporting burden for this collection of information is estimated to vary from a few minutes to many hours per individual response, with an average of 2 hours per individual response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief (2800), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

[55 FR 51706, Dec. 17, 1990]

Subpart D—Miscellaneous Minerals Provisions

§ 228.80 Operations within Misty Fjords and Admiralty Island National Monuments, Alaska.

(a) Mineral activities on valid mining claims in the Misty Fjords and Admiralty Island National Monuments must be conducted in accordance with regulations in subpart A of this part and with the provisions of this section.

(b) Prior to approving a plan of operations, the authorized officer must consider:

(1) The resources of ecological, cultural, geological, historical, pre-historical, and scientific interest likely

§ 228.100

to be affected by the proposed operations, including access; and

(2) The potential adverse impacts on the identified resource values resulting from the proposed operations.

(c) A plan of operations will be approved if, in the judgment of the authorized officer, proposed operations are compatible, to the maximum extent feasible, with the protection of the resource values identified pursuant to paragraph (b)(1) of this section.

(1) The authorized officer will deem operations to be compatible if the plan of operations includes all feasible measures which are necessary to prevent or minimize potential adverse impacts on the resource values identified pursuant to paragraph (b)(1) of this section and if the operations are conducted in accordance with the plan.

(2) In evaluating the feasibility of mitigating measures, the authorized officer shall, at a minimum, consider the following:

(i) The effectiveness and practicality of measures utilizing the best available technology for preventing or minimizing adverse impacts on the resource values identified pursuant to paragraph (b)(1) of this section; and

(ii) The long- and short-term costs to the operator of utilizing such measures and the effect of these costs on the long- and short-term economic viability of the operations.

(3) The authorized officer shall not require implementation of mitigating measures which would prevent the evaluation or development of any valid claim for which operations are proposed.

(d) In accordance with the procedures described in subpart A and paragraphs (c)(1) through (c)(3) of this section, the authorized officer may approve modifications of an existing plan of operations:

(1) If, in the judgment of the authorized officer, environmental impacts unforeseen at the time of approval of the existing plan may result in the incompatibility of the operations with the protection of the resource values identified pursuant to paragraph (b)(1) of this section; or

(2) Upon request by the operator to use alternative technology and equipment capable of achieving a level of en-

36 CFR Ch. II (7-1-07 Edition)

vironmental protection equivalent to that to be achieved under the existing plan of operations.

[51 FR 20827, June 9, 1986]

Subpart E—Oil and Gas Resources

SOURCE: 55 FR 10444, Mar. 21, 1990, unless otherwise noted.

§ 228.100 Scope and applicability.

(a) *Scope.* This subpart sets forth the rules and procedures by which the Forest Service of the United States Department of Agriculture will carry out its statutory responsibilities in the issuance of Federal oil and gas leases and management of subsequent oil and gas operations on National Forest System lands, for approval and modification of attendant surface use plans of operations, for monitoring of surface disturbing operations on such leases, and for enforcement of surface use requirements and reclamation standards.

(b) *Applicability.* The rules of this subpart apply to leases on National Forest System lands and to operations that are conducted on Federal oil and gas leases on National Forest System lands as of April 20, 1990.

(c) *Applicability of other rules.* Surface uses associated with oil and gas prospecting, development, production, and reclamation activities, that are conducted on National Forest System lands outside a leasehold must receive prior authorization from the Forest Service. Such activities are subject to the regulations set forth elsewhere in 36 CFR chapter II, including but not limited to the regulations set forth in 36 CFR parts 251, subpart B, and 261.

§ 228.101 Definitions.

For the purposes of this subpart, the terms listed in this section have the following meaning:

Authorized Forest officer. The Forest Service employee delegated the authority to perform a duty described in these rules. Generally, a Regional Forester, Forest Supervisor, District Ranger, or Minerals Staff Officer, depending on the scope and level of the duty to be performed.