AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

U.S.C. 3507), the Forest Service has received approval by the Office of Management and Budget to collect cave nomination information under clearance number 0596–0123 and confidential information under 0596–0122. The information provided for the cave nominations will be used to determine which caves will be listed as ''significant'' and the information in the requests to obtain confidential cave information will be used to decide whether to grant access to this information. Response to the call for cave nominations is voluntary. No action may be taken against a person for refusing to supply the information requested. Response to the information requirements for obtaining confidential cave information is required to obtain a benefit in accordance with section 5 of the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4304).

PART 292—NATIONAL RECREATION AREAS

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Subpart A—General

§§ 292.1–292.10 [Reserved]

Subpart B—Whiskeytown-Shasta-Trinity National Recreation Area

AUTHORITY: Sec. 1, 30 Stat. 35, as amended, 62 Stat. 100, Sec. 1, 33 Stat. 628; 16 U.S.C. 551, 472.

SOURCE: 38 FR 5853, Mar. 5, 1973, unless otherwise noted.

§ 292.11 Introduction.

(a) Administration of the Shasta and Clair Engle-Lewiston Units will be coordinated with the other purposes of the Central Valley Project of the Bureau of Reclamation and of the recreation area as a whole so as to provide

for: (1) Public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment; and (3) the management, utilization, and disposal of renewable natural resources which in the judgment of the Secretary of Agriculture will promote or is compatible with, and does not significantly impair, public recreation and conservation of scenic, scientific, historic, or other values contributing to public enjoyment.

(b) The Secretary may not acquire without consent of the owner any privately owned ''improved property'' or interests therein within the boundaries of these units, so long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is approved by the Secretary. This suspension of the Secretary's authority to acquire ''improved property'' without the owner's consent would automatically cease: (1) If the property is made the subject of a variance or exception to any applicable zoning ordinance that does not conform to the applicable standards contained in §§ 292.11 to 292.13; or (2) if such property is put to any use which does not conform to any applicable zoning ordinance approved by the Secretary.

(c) *Improved property* as used in §§ 292.11 to 292.13, means any building or group of related buildings, the actual construction of which was begun before February 7, 1963, together with not more than three acres of land in the same ownership on which the building or group of buildings is situated, but the Secretary may exclude from such ''improved property'' any shore or waters, together with so much of the land adjoining such shore or waters, as he deems necessary for public access thereto.

(d) Sections 292.11 to 292.13 specify the standards with which local zoning ordinances for the Shasta and Clair Engle-Lewiston Units must conform if the ''improved property'' or unimproved property proposed for development as authorized by the Act within the boundaries of the units is to be exempt from acquisition by condemnation. The objectives of §§ 292.11 to 292.13 are to:

(1) Prohibit new commercial or industrial uses other than those which the Secretary considers to be consistent with the purposes of the act establishing the national recreation area; (2) promote the protection and development of properties in keeping with the purposes of that Act by means of use, acreage, setback, density, height or other requirements; and (3) provide that the Secretary receive notice of any variance granted under, or any exception made to, the application of the zoning ordinance approved by him.

(e) Following promulgation of §§ 292.11 to 292.13 of final form, the Secretary is required to approve any zoning ordinance or any amendment to an approved zoning ordinance submitted to him which conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment.

(f) Any owner of unimproved property who proposes to develop his property for service to the public may submit to the Secretary a development plan setting forth the manner in which and the time by which the property is to be developed and the use to which it is proposed to be put. If the Secretary determines that the development and the use of the property conforms to approved zoning ordinances, and serves the purposes of the National Recreation Area and that the property is not needed for easements and rights-of-way for access, utilities, or facilities, or for administration sites, campgrounds, or other areas needed for use by the United States for visitors, he may in his discretion issue to such owner a certification that so long as the property is developed, maintained, and used in conformity with approved zoning ordinances the Secretary's authority to acquire the property without the owner's consent is suspended.

§ 292.12 General provisions; procedures.

(a) *Approval of zoning ordinance and development plans.* (1) All validly adopted zoning ordinances and amendments thereto pertaining to the Shasta and Clair Engle-Lewiston Units may be submitted by the county of origin to

the Secretary for written approval relative to their conformance with the applicable standards of §§ 292.11 to 292.13. Within 60 days following submission, the county will be notified of the Secretary's approval or disapproval of the zoning ordinances or amendments thereto. If more than 60 days are required, the county will be notified of the expected delay and of the additional time deemed necessary to reach a decision. The Secretary's approval shall remain effective so long as the zoning ordinances or amendments thereto remain in effect as approved.

(2) Development plans pertaining to unimproved property within the Shasta and Clair Engle-Lewiston Units may be submitted by the owner to the Secretary for determination as to whether they conform with approved zoning ordinances and whether the planned use and development would serve the Act. Within 30 days following submission of such plans the Secretary will approve or disapprove the plans or, if more than 30 days are required, will notify the applicant of the expected delay and of the additional time deemed necessary.

(b) *Amendment of ordinances.* Amendments of approved ordinances may be furnished in advance of their adoption to the Secretary for written decision as to their conformance with applicable standards of §§ 292.11 to 292.13.

(c) *Variances or exceptions to application of ordinances.* (1) The Secretary shall be given written notice of any variance granted under, or any exception made to, the application of a zoning ordinance or amendment thereto approved by him.

(2) The County, or private owners of improved property, may submit to the Secretary proposed variances or exceptions to the application of an approved zoning ordinance or amendment thereto for written advice as to whether the intended use will make the property subject to acquisition without the owner's consent. Within 30 days following his receipt of such a request, the Secretary will advise the interested party or parties as to his determination. If more than 30 days are required by the Secretary for such determination, he shall so notify the interested party or parties stating the additional time required and the reasons therefore.

(d) *Certification of property.* Where improvements and land use of improved property conform with approved ordinances, or with approved variances from such ordinances, certification that the Secretary's authority to acquire the property without the owner's consent is suspended may be obtained by any party in interest upon request to the Secretary. Where the development and use of unimproved property for service to the public is approved by the Secretary, certification that the authority to acquire the property without the owner's consent is suspended may be issued to the owner.

(e) *Effect of noncompliance.* Suspension of the Secretary's authority to acquire any improved property without the owner's consent will automatically cease if: (1) Such property is made the subject of variance or exception to any applicable zoning ordinance that does not conform to the applicable standard in the Secretary's regulation, (2) such property is put to a use which does not conform to any applicable zoning ordinance, or, as to property approved by the Secretary for development, a use which does not conform to the approved development plan or (3) the local zoning agency does not have in force a duly adopted, valid zoning ordinance that is approved by the Secretary in accordance with the standards of §§ 292.11 to 292.13.

(f) *Nonconforming commercial or industrial uses.* Any existing commercial or industrial uses not in conformance with approved zoning ordinances shall be discontinued within 10 years from the date such ordinances are approved: *Provided, however,* That with the approval of the Secretary such 10-year period may be extended by the county for a prescribed period sufficient to allow the owner reasonable additional time to amortize investments made in the property before November 8, 1965.

§ 292.13 Standards.

(a) The standards set forth in §§ 292.11–292.13 shall apply to the Shasta and Clair Engle-Lewiston Units, which are defined by the boundary descriptions in the notice of the Secretary of Agriculture of July 12, 1966 (31 FR 9469), and to a strip of land outside the National Recreation Area on either side

of Federal Aid Secondary Highway Numbered 1089, as more fully described in 2(a) of the act establishing the recreation area (79 Stat. 1296).

(b) *New industrial or commercial uses.* New industrial or commercial uses will be prohibited in any location except under the following conditions:

(1) The industrial use is such that its operation, physical structures, or waste byproducts would not have significant adverse impacts on surrounding or nearby outdoor recreation, scenic and esthetic values. Industrial uses having an adverse impact include, but are not limited to, cement production, gravel extraction operations involving more than one-fourth acre of surface, smelters, sand, gravel and aggregate processing plants, fabricating plants, pulpmills, and commercial livestock feeder yards.

(2)(i) The commercial use is for purposes of providing food, lodging, automotive or marine maintenance facilities and services to accommodate recreationists and the intended land occupancy and physical structures are such that they can be harmonized with adjacent land development and surrounding appearances in accordance with approved plans and schedules.

(ii) This standard provides for privately owned and operated businesses whose purposes and physical structures are in keeping with objectives for use and maintenance of the area's outdoor recreation resources. It precludes establishment of drive-in theaters, zoos, and similar nonconforming types of commercial entertainment.

(c) *Protection of roadsides.* Provisions to protect natural scenic qualities and maintain screening along public travel routes will include:

(1) Prohibition of new structural improvements or visible utility lines within a strip of land extending back not less than 150 feet from both sides of the centerline of any public road or roadway except roads within subdivisions or commercial areas. In addition to buildings, this prohibition pertains to above-ground power and telephone lines, borrow pits, gravel, or earth extraction areas, and quarries.

(2) Retention of trees and shrubs in the above-prescribed roadside strips to the full extent that is compatible with needs for public safety and road maintenance. Wholesale clearing by chemical or other means for fire control and other purposes will not be practiced under this standard.

(d) *Protection of shorelines.* Provisions to protect scenic qualities and reduce potentials for pollution of public reservoirs will include: Prohibition of structures within 300 feet horizontal distance from highwater lines of reservoirs other than structures the purpose of which is to service and accommodate boating or to facilitate picnicking and swimming: *Provided,* That exceptions to this standard may be made upon showing satisfactory to the Secretary that proposed structures will not conflict with scenic and antipollution considerations.

(e) *Property development.* Location and development of structures will conform with the following minimum standards:

(1) *Commercial development.* (i) Stores, restaurants, garages, service stations, and comparable business enterprises will be situated in centers zoned for this purpose unless they are operated as part of a resort or hotel. Commercial centers will be of sufficient size that expansion of facilities or service areas is not dependent upon use of public land.

(ii) Sites outside designated commercial centers will be used for resort development contingent upon case by case concurrence of the responsible county officials and the Secretary that such use is, in all aspects, compatible with the purposes for establishing the recreation area.

(iii) Structures for commercial purposes, inclusive of isolated resorts or motels, will not exceed two stories height at front elevation, and will be conventional architecture and will utilize colors, nonglare roofing materials, and spacing or layout that harmonizes with forested settings. Except for signs, structures designed primarily for purposes of calling attention to products or service will not be permitted.

(2) *Residential development.* (i) Locations approved for residential development will be buffered by distance, topography, or forest cover from existing or planned public use areas such as

trailer parks, campgrounds, or organization sites. Separation will be sufficient to avoid conflicts resulting from intervisibility, noise, and proximity that is conducive to private property trespass.

(ii) Requirements for approval of residential areas will include: (*a*) Construction of access when main access would otherwise be limited to a road constructed by the United States primarily to service publicly owned recreation developments; (*b*) limitation of residences to single-family units situated at a density not exceeding two per acre, but any lot of less than a half-acre may be used for residential purposes if, on or before promulgation of §§ 292.11–292.13, such lot was in separate ownership or was delineated in a county-approved plat that constitutes part of a duly recorded subdivision; (*c*) use of set-backs, limitations to natural terrain, neutral exterior colors, nonglare roofing materials, and limitations of building heights fully adequate to harmonize housing development with the objective of the National Recreation Area as set forth in the act.

(3) *Signs and signing.* Only those signs may be permitted which: (i) Do not exceed 1 square foot in area for any residential use; (ii) do not exceed 40 square feet in area, 8 feet in length, and 15 feet maximum height from ground for any other use, including advertisement of the sale or rental of property; and (iii) which are not illuminated by any neon or flashing device. Commercial signs may be placed only on the property on which the advertised use occurs, or on the property which is advertised for sale or rental. Signs shall be subdued in appearance, harmonizing in design and color with the surroundings and shall not be attached to any tree or shrub. Nonconforming signs may continue for a period not to exceed 2 years from the date a zoning ordinance containing these limitations is adopted.

Subpart C—Sawtooth National Recreation Area—Private Lands

AUTHORITY: Sec. 4(a), Act of Aug. 22, 1972 (86 Stat. 613).

§ 292.14 Introduction.

(a) *Purpose.* In accordance with the provisions of the Act establishing the Sawtooth National Recreation Area (86 Stat. 612), the regulations of this subpart establish standards for the use, subdivision and development of privately owned property within the boundaries of the Sawtooth National Recreation Area. The standards are in furtherance of the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values of the Recreation Area. Unless, in the judgment of the Secretary, such property is being used, or is in imminent danger of being used, in a manner incompatible with such standards, the property or any interest therein may not be acquired by condemnation. However, private land or an interest therein, determined to be necessary for access to and utilization of public property, and for recreation and other facilities, may be condemned without regard to this restriction, subject however, to the limitation in § 292.15(j).

(b) *Amendment of regulations.* Amendments to these regulations shall be made in accordance with the Administrative Procedures Act (60 Stat. 238, 5 U.S.C. 553), including the publishing of the amendments as a notice of proposed rulemaking with final adoption after interested persons have been given an opportunity to participate in the rulemaking through submission of comments.

(c) *Definitions*—(1) *Cluster-type development.* Planned unit development which allows flexibility in neighborhood and subdivision lot design by dedicating or reserving the land so saved to open space.

(2) *Community development plan.* A narrative plan with maps which sets forth specific standards for desirable development of a community.

(3) *Designated community.* A populated area divided into lots, blocks and streets as platted and recorded in the official records of the county, containing residences and commercial establishments providing goods and services and retaining the atmosphere of a western frontier ranch-type town and so classified in § 292.15(a).

(4) *Dude ranching.* Development oriented to furnish an outdoor recreational or educational experience related to ranching. Facility development is compatible with the pastoral environment, rustic in nature and harmoniously colored.

(5) *Mineral operations.* All functions, work and activities in connection with exploration, development, mining or processing of mineral resources except prospecting which will not cause significant surface disturbance and will not involve removal of more than a reasonable amount of mineral deposit for analysis and study.

(6) *Private property.* Lands or interests in lands not owned by Federal, State, or local governments but not including unpatented mining claims.

(7) *Ranch-type character.* A low profile, rambling, well-proportioned, rustic appearing, rough-sawn wood or wood and stone structure or group of structures harmoniously situated within a natural environment.

(8) *Residential outbuilding.* Nonhabitable building detached from the residence, such as a garage, woodshed or storage building.

(9) *Secretary.* Secretary of Agriculture.

(10) *Area Ranger.* The Forest Officer having administrative authority for the Sawtooth National Recreation Area.

[39 FR 11544, Mar. 29, 1974]

§ 292.15 General provisions—procedures.

(a) *Classification of private property.* For the purpose of establishing specific standards applicable to the several parcels of private land within the boundaries, such properties are classified and assigned to land use categories as shown on the Land Use Category Map, dated December 15, 1973, as amended July 16, 1976, on file and available for public inspection in the office of the Area Ranger, Sawtooth National Recreation Area, Ketchum, Idaho. The classification of private properties is based on evaluation of scenic, natural, historic, pastoral, wildlife, and other values.

(b) *Land use categories.* Land use categories shown on the map referred to in paragraph (a) of this section are:

(1) *Designated community.* All properties inside a designated community.

(2) *Residential.* Areas for residential development outside designated communities.

(3) *Commercial.* Areas for commercial development outside designated communities.

(4) *Agriculture.* All properties outside designated communities not placed in a residential or commercial land use category.

(5) *Mineral.* Any areas in the land use in paragraphs (b) (1) through (4) of this section, used for mineral operations.

(c) *Changes in classification.* The Secretary may make changes in the classification of private lands set forth in paragraph (a) of this section by incorporating such changes in an amendment of these regulations.

(d) *Certification of compliance with standards*—(1) *Present use.* Any owner of property may request in writing the Area Ranger to examine the present use of the property and issue a certification that such present use conforms to the applicable standards established in § 292.16 for the land use category in which the property is placed. If after examination the Area Ranger determines that the present use of the property does so conform, he will issue a certification to this effect.

(2) *Planned development or change in use.* Any owner of property who proposes to change the use or develop his property for other than agricultural use may submit to the Area Ranger a use or development plan setting forth the manner in which and the time by which the property is to be developed and the use to which the property is to be put. If the Area Ranger determines that the development and use plan conforms to the applicable standards established in § 292.16 for the land use category in which the property is placed, he will issue a certification to this effect.

(3) *Notification of action.* Within 45 days after receipt of request for certification, the Area Ranger shall:

(i) Issue the certification.

(ii) Notify applicant that additional information is needed before action can be taken on the application.

(iii) Notify applicant that certification is denied, and reasons for denial.

(iv) Notify applicant that action on the request is deferred for a specified period of time for stated reasons.

(e) *Qualified certifications.* (1) Any owner of a property classified residential or commercial under paragraph (a) of this section which had been improved and was being used for residential or commercial purposes on the effective date of these regulations, but which does not conform to the standards established for properties in the land use category in which the property is placed may nevertheless be issued a certification for period not to exceed 10 years so that the improvements may be made to conform to the standards. Such certification shall specify that it is only effective so long as the property is not subdivided, and is not further improved and the improvements existing on the effective date of these regulations, are not reconstructed, altered or relocated, except to meet standards. The certification shall specify the date on which it shall terminate.

(2) If the Area Ranger determines, prior to certification, that a part or all of a property, for which a request for certification is made, is needed for access to and utilization of public property or for recreation and other facilities, he may except from the certification that part of the property needed for these purposes.

(f) *Revocation of certification.* The Area Ranger will revoke a certification when he finds that the property is being used or developed not in conformance with the terms of the certification or the applicable standards established in § 292.16 or is in imminent danger of being so used or developed. Notice of such revocation will be in writing and delivered to the owner in person or by certified mail. A partial revocation may be made when a portion of a property covered by a certification is determined to be needed for access to and utilization of public property or for recreation and other facilities.

(g) *Effect of certification.* Property for which a certification is held by the owner shall not be acquired by the Secretary by condemnation.

(h) *Effect of noncompliance with standards.* Property for which a determination has been made that it is being used or developed not in conformance with the applicable standards established in § 292.16 for the land use category in which the property is placed may be acquired by the Secretary by condemnation.

(i) *Acquisition by negotiated purchase.* (1) Any privately owned land or interest in land determined by the Secretary to be needed in furtherance of the objectives and purposes for which the Sawtooth National Recreation Area was established may be acquired by negotiated purchase subject only to the limitation in paragraph (j) of this section.

(2) Property which has been developed for use prior to the effective date of these regulations, but which is not in conformance with applicable standards may be acquired by the Secretary through negotiated purchase and the Secretary may permit the owners, their successors or assigns to retain a right of use and occupancy of the improved property for a definite term not beyond December 31, 1988.

(j) *Limitation on acquisitions.* Acquisitions of lands or interests therein for access to and utilization of public property and for recreation and other facilities shall not exceed 5 percent of the total acreage of all private property within the Sawtooth National Recreation Area on August 22, 1972. A land acquisition plan shall be prepared by the Area Ranger and approved by the Regional Forester showing those properties needed for access to and utilization of public property or for recreation and other facilities. Said plan may be revised from time to time upon approval by the Regional Forester. Said plan shall be available for inspection by the public in the office of the Area Ranger.

(k) *Land exchanges.* Some parcels of Federal lands within the Sawtooth National Recreation Area are classified or may be subsequently classified in the overall general plan for the Recreation Area as suitable for selection through land exchange. Using existing land exchange authorities, these Federal lands may be made available for selection by parties owning land within the boundaries of the National Recreation Area to resolve some existing or potential

land use conflicts. The values of the properties so exchanged shall be approximately equal, or, if they are not approximately equal, they shall be equalized by the payment of cash. Federal lands which may be located within the boundaries of designated communities will be considered for exchange only after acceptable community development plans and ordinances have been implemented.

(l) *Appeals.* Any landowner who is adversely affected by a decision of the Area Ranger under these regulations may file an appeal under the provisions of 36 CFR part 251, subpart C.

(m) *Judicial review.* The United States District Court for the District of Idaho shall have jurisdiction to review these regulations upon a compliant filed within 6 months after the effective date of these regulations, by any affected landowner in an action for a declaratory judgment as provided in the Act of August 22, 1972 (86 Stat. 612), section 4(a).

[39 FR 11544, Mar. 29, 1974, as amended at 41 FR 29379, July 16, 1976; 54 FR 3368, Jan. 23, 1989]

§ 292.16 Standards.

The standards established in these regulations are in furtherance of the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreation values of the Recreation Area.

(a) *Applicability.* The standards set forth in this section for each land use category shall apply to the private land in each such land use category as classified by the Secretary in accordance with § 292.15.

(b) *Changes in standards.* Changes in and addition to the standards may be made from time to time through amendment of these regulations.

(c) *General standards.* The following standards apply to properties in all land use categories.

(1) Use and development of the property will be in conformance with applicable Federal, State, and local laws, regulations and ordinances.

(2) Development, improvement and use of the property will not materially detract from the scenic, natural, historic, pastoral, and fish and wildlife values of the area.

(3) There will be adequate provision for disposal of solid and liquid waste originating on or resulting from use of the property.

(4) All new utilities will be underground.

(5) No structures or other improvements will be constructed in or encroaching upon streambeds, banks and flood plains of live or intermittent streams. Streambeds, banks, and flood plains will not be disturbed, except as may be necessary to construct, operate, and maintain irrigation, fisheries, utilities, roads, and similar facilities or improvements. Any such necessary encroachment will avoid impeding water flow, sedimentation of streams or entrance of deleterious material into streams.

(d) *Designated communities.* (1) The following standards are established until replaced as provided for in paragraph (d)(2) of this section.

(i) No buildings or structures, or part thereof, erected, constructed, reconstructed, altered, moved, or used for any purpose, except in conformance with the standards established herein.

(ii) No excavation or topographic change, except that required for foundations, utilities, or roads, that would modify or change the scenic beauty of natural hillsides or mountain slope lands.

(iii) Minimum 100-foot frontage on new building sites.

(iv) All new buildings set in 10 feet from each side of property line.

(v) All new buildings set back 20 feet from front property line.

(vi) Only one single-family dwelling for each building site or lot.

(vii) No new building to exceed two stories in height as determined from ground level.

(viii) No building or structure erected with foundation pillars or stilts that exceeds 36 inches above ground level. Pillars or stilts, if used, must be enclosed.

(ix) Minimum of 750 square feet for new residences.

(x) All new buildings constructed of logs, shakes, rough lumber, rough wood, and native stone.

(xi) Mobile or semimobile homes permitted only in existing mobile home parks.

(xii) Nonreflective roofs on new buildings.

(xiii) All new steps and walks constructed of wood.

(xiv) Paints or stains to be of earth tones common to the area.

(xv) All buildings and structures, including fences, to be maintained in a useable and servicable condition or removed. Properties to be maintained in a clean and orderly condition.

(xvi) Existing plus new buildings or structures cannot occupy more than 30 percent of the land surface on a lot less than 20,000 square feet in area. On any lot larger than 20,000 square feet, existing plus new buildings cannot occupy more than 6,500 square feet. Existing properties exceeding this amount as of the effective date of these regulations may not be further developed.

(xvii) The standards in paragraphs (d)(1) (v), (vi), (ix), and (xvi) of this section shall not apply to properties developed for commercial purposes.

(2) The Area Ranger shall cooperate with each designated community in the preparation of a community development plan and implementing ordinances which will assure that use and development of the private properties within the community will be consistent with the purposes for which the Sawtooth National Recreation Area was established and with the overall general plan of the Recreation Area. The Secretary may then, by amendment of these regulations, replace the standards adopted pursuant to paragraph (d)(1) of this section with the standards set forth in such community development plan and implementing ordinances as the standards applicable to that designated community.

(e) *Residential.* (1) Vegetative cover and screening requirements. Any combination of vegetative screening, topography, and structure design that renders the residence inconspicuous and not obtrusive as seen from main travel routes.

(2) *Buildings.* (i) Not more than one residence on each separately owned contiguous property as recorded in the records of the appropriate county on date of publication of these regulations.

(ii) *Not more than two outbuildings with each residence.* Aggregate square foot area of outbuildings not to exceed 850 square feet and to be limited to one story not more than 22 feet in height.

(iii) Dwelling size not less than 750 square feet of floor space.

(iv) Building architecture compatible with location and the pastoral environment, rustic in nature, harmoniously colored or natural wood finish or suitable wood substitutes, nonreflective roofs and sidings.

(v) Height of buildings to be in keeping with site characteristics and normally not exceeding on-site tree height, or 30 feet.

(vi) Sufficient setback of buildings from centerline of public roads for safety and unhampered traffic flow.

(vii) Minimum building setback from property line—10 feet.

(3) No excavation or topographic change except that required for buildings, roads, and utilities.

(4) Removal of live trees and other vegetation limited to that necessary to accommodate buildings and roads to allow installation of utilities.

(5) Roads designed, located, and constructed to minimize adverse esthetic impact and soil erosion.

(6) Owner identification and sale or rental signs not to exceed 2 square feet in size.

(7) Buildings and structures, including fences, to be maintained in a usable and serviceable condition or removed.

(8) No further reduction in size of residential ownerships except that which will not impair the objectives for which the Sawtooth National Recreation Area was established. A certification will be issued pursuant to § 292.15(d) upon application in such cases.

(f) *Commercial*—(1) *General.* Service provided must serve a need which cannot readily or adequately be provided in a designated community, and must be compatible with the purposes for which the Sawtooth National Recreation Area was established.

(2) *Buildings.* (i) Building architecture to be compatible with the pastoral environment, rustic in nature, harmoniously colored or natural wood finish

or suitable wood substitutes, nonreflective roofs and sidings.

(ii) Building height to be in keeping with building size, scale, setback from roads and property boundaries, site size, setting, building design and type of use.

(iii) Sufficient setback of buildings from centerline of public roads for safety and unhampered traffic flow.

(3) Only signs identifying the commercial enterprise being conducted on the property. Signs not to exceed 20 square feet in area, 6 feet in length and 15 feet maximum height. Signs to be subdued in appearance and harmonizing in design and color with the surroundings. Signs not complying with the standard may be approved by certifications issued pursuant to § 292.15(d) in special cases.

(4) No flashing lights.

(5) No new mobile or semimobile homes and mobile home parks except where they may be located without substantially impairing or detracting from the scenic, natural, historic, pastoral, and fish and wildlife values of the area.

(g) *Agriculture.* (1) Only structures which do not substantially impair or detract from the scenic, natural, historic, pastoral, and fish and wildlife values of the area and which are necessary for ranching or dude ranching such as dwellings, barns, storage buildings, fences, corrals, irrigation facilities, roads, and utilities.

(2) Buildings to be ranch-type character with log or other rustic exterior with harmoniously colored or natural wood finish and nonreflective surfaces.

(3) Fences and other improvements to be in harmony with the western ranching atmosphere.

(4) Minimum setback of new buildings to be 150 feet from public roads where determined feasible by the Area Ranger.

(5) No further reduction in size of agricultural ownerships except that which will not impair the objectives for which the Sawtooth National Recreation Area was established. A certification will be issued pursuant to § 292.15(d) upon application in such cases.

(6) No signs, billboards or advertising devices except a property identification sign and one sale or rental sign not to exceed 2 square feet in area, harmonious in design and color with the surroundings. Signs not complying with this standard may be approved by certifications issued pursuant to § 292.15(d) in special cases.

(7) Any tree removal and related slash disposal and soil erosion prevention measures to be conducted in a manner that will minimize detrimental effects to the site and adjoining lands.

(8) The general topography of the landscape to be unaltered except for incidental excavation or topographic change required by ranching activities.

(9) Structures and improvements, including fences, to be maintained in usable condition or removed. Those recognized as having historic or esthetic value may remain.

(10) Roads to be designed, located and constructed to minimize esthetic impact and soil movement.

(11) Agricultural practices to be limited to hay production and pasture and range grazing in a manner which does not degrade water quality or result in accelerated soil erosion.

(h) *Mineral operations.* The standards set forth in this paragraph shall apply to a private property or portion thereof in any land use category which is used for mineral operations. To aid in determining whether a planned mineral operation will conform to these standards, the owner of the property shall submit to the Area Ranger a proposed plan of operations. If the Area Ranger determines that the proposed operation conforms to the standards established herein he will approve the plan and such approval shall constitute the certification provided for in § 292.15(d).

(1) Operations will be confined to those locations where they may be conducted without substantially impairing or detracting from the scenic, natural, historic, pastoral, and fish and wildlife values of the area.

(2) The general standards set forth in paragraph (c) of this section shall apply to any mineral operations.

(3) The operations as described in the plan of operation and as they are carried out in accordance with the plan shall:

(i) Comply with Federal and State air and water quality and waste disposal standards.

(ii) Minimize adverse impacts on scenic values.

(iii) Provide for prompt stabilization and restoration of areas disturbed by the operations.

[39 FR 11544, Mar. 29, 1974, as amended at 69 FR 55094, Sept. 13, 2004]

Subpart D—Sawtooth National Recreation Area—Federal Lands

AUTHORITY: Sec. 1, 30 Stat. 35, 36, as amended, 16 U.S.C. 478, 551; sec. 11, 86 Stat. 612, 16 U.S.C. 460aa–10.

§ 292.17 General provisions.

(a) The use, management and utilization of natural resources on the Federal lands in the Sawtooth National Recreation Area (SNRA) are subject to the General Management Plan and the laws, rules, and regulations pertaining to the National Forests with the exception that part 252 of this chapter does not apply to these resources. No use or disposal of such resources shall be authorized which will result in substantial impairment of the natural values of the Recreation Area.

(b) *Definitions:*

(1) *Act* means Pub. L. 92–400 (86 Stat. 612), which established the SNRA.

(2) *Area Ranger or Superintendent* means the Forest Service officer having administrative authority for the SNRA.

(3) *General management plan* means the document setting forth the land allocation and resource decisions for management of the SNRA.

(4) *Letter of authorization* means a letter signed by the Area Ranger, or his designee, authorizing an operator to conduct operations as approved in the operating plan.

(5) *Mineral resources* means all locatable minerals.

(6) *Operator* means a person conducting or proposing to conduct operations.

(7) *Operations* means all functions works, and activities in connection with exploration, development, mining or processing of mineral resources and all uses reasonably incident thereto, including roads and other means of access on lands, regardless of whether said operations take place on or off mining claims.

(8) *Operating plan* means a written instrument describing proposed operations on Federal lands and containing such information as required by § 292.18.

(9) *Person* means any individual, partnership, association, corporation, or other legal entity.

(10) *Substantial impairment* means that level of disturbance of the values of the SNRA which is incompatible with the standards of the General Management Plan. The proposed activities will be evaluated as to:

(i) The period of impact,

(ii) The area affected, and

(iii) The importance of the impact on the SNRA values.

(11) *Unpatented mining claims* means any mining claim or millsite claim located prior to August 22, 1972, pursuant to the Mining Law of 1872, but not patented.

[42 FR 39387, Aug. 4, 1977]

§ 292.18 Mineral resources.

(a) *Occupancy.* No unpatented mining claim may be used or occupied, except as otherwise permitted for any purpose other than exploration, mining, or processing operations and uses reasonably incident thereto.

(b) *Letter of authorization.* A letter of authorization with the posting of an appropriate bond is required prior to conducting operations in the SNRA.

(c) *Operating plan.* A proposed operating plan must be filed with the Area Ranger prior to conducting any operations and prior to construction, reconstruction, improvement or maintenance of roads and trails, bridges, or other facilities for access within the SNRA; provided, that an operating plan is not required for—

(1) Operations which only involve vehicular travel on existing roads open to public use;

(2) Marking and/or reestablishing claims corners;

(3) Sampling and exploration work which will not cause significant damage to surface resources and will not involve the removal of more than 100 pounds of material for analysis and

study, provided the Area Ranger has prior notice of such activities; or

(4) The evaluation and study of existing underground mine workings not involving surface disturbances.

(d) *Operating plan—requirements.* Each operating plan shall include:

(1) The names and mailing addresses of operators and their agents, along with a statement of ownership and/or authorization under which the operation is to be conducted, and including a copy of the location notice(s), proof of assessment labor, and quit claim deeds if ownership has changed within the assessment year.

(2) A map or sketch showing information sufficient to locate the proposed area of operations on the ground, existing and/or proposed roads or access routes to be used in connection with the operations and the approximate location and size of areas where surface resources will be disturbed.

(3) Information describing the nature of operations proposed and how they will be conducted, the type and standard of existing and proposed roads or access routes, the means of transportation to be used, the period during which the proposed operations will take place, and measures to be taken for protecting the values of the SNRA and reclaiming the lands.

(e) *Operating plan—approval.* (1) The Area Ranger shall promptly acknowledge receipt of any operating plan to the operator. The Area Ranger shall review the environmental effects and conduct a technical examination of each proposed operating plan.

The technical examination shall identify the resources and the land uses in the area of operations. The Area Ranger shall use the current General Management Plan of the SNRA and the Final Environmental Statement as guides in determining whether the proposed operations may result in substantial impairment of the values of the SNRA. In his review, the Area Ranger may solicit comments from the general public and/or other government agencies in analysis of environmental effects. In his review, the Area Ranger will consider the compatibility of the proposed operating plan with the Act and the General Management Plan. The Area Ranger may not approve an operating plan for an identical claimed area to more than one operator.

(2) Within 30 working days of receipt of a proposed operating plan, the Area Ranger shall take one of the following actions:

(i) Notify the operator that the operating plan has been approved as submitted; or,

(ii) Notify the operator that the operating plan has been approved as subject to the operator accepting the changes or conditions deemed necessary by the Area Ranger; or,

(iii) Notify the operator that more time is necessary to review the plan because of the need to prepare an environmental impact statement, or conduct a cultural resource survey, or other stated reasons; in such cases, the operator will be notified of the approximate time needed to complete the review; or,

(iv) Notify the operator of an apparent conflict of ownership and that additional proof of ownership is required; or,

(v) Notify the operator that the operating plan as submitted is inadequate to support any conclusion as to substantial impairment, and that additional information will be required; or,

(vi) Notify the operator that the operating plan is not approved since such operations as specified in the plan would create substantial impairment.

(f) *Operating plans—suspension or modification.* The Area Ranger may suspend or terminate authorization to operate in whole or in part where such operations are causing substantial impairment which cannot be mitigated. At any time during operations under an approved operation plan, the operator may be required to modify the operating plan in order to minimize or avoid substantial impairment of the values of the SNRA.

(g) *Bond requirements.* (1) An operator shall furnish a bond, in the amount determined by the Area Ranger to be appropriate for reclamation of the disturbed surface area, prior to the commencement of operations. In lieu of a bond, the operator may deposit into a Federal depository, as directed by the Forest Service, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the

United States having market value at the time of deposit or not less than the required dollar amount of the bond.

(2) When the reclamation of the project, or portions thereof, has been completed, the operator will notify the Area Ranger who will examine the area to determine whether the reclamation is acceptable. When the Area Ranger has accepted as completed any portion of the reclamation, he shall reduce proportionately the amount of bond thereafter to be required with respect to the remaining reclamation. However, the operator will not be released from liability under the bond for the amount which may be necessary to revegetate each planting area for a minimum period of at least 5 years after the first efforts at revegetation if those initial efforts are unsuccessful.

(3) If the Area Ranger determines that revegetation is likely to occur before the expiration of such minimum period, he may release the operator from the extended liability under the bond for revegetation of planting area.

(h) *Access.* The operator shall permit free and unrestricted public access to and through lands included within an unpatented mining claim for all lawful and proper purposes. In areas where such access would unduly interfere with authorized operations or would constitute a hazard to public health and safety, public use may be restricted with prior approval of the Area Ranger.

[42 FR 39387, Aug. 4, 1977]

Subpart E—Hells Canyon National Recreation Area—Private Lands

AUTHORITY: 89 Stat. 1117; 16 U.S.C. 460gg–460gg–13.

SOURCE: 59 FR 30497, June 13, 1994, unless otherwise noted.

§ 292.20 Purpose and scope.

(a) *Purpose.* The Act establishing the Hells Canyon National Recreation Area (hereafter referred to as HCNRA) (16 U.S.C. 460gg–460gg–13) encourages the retention of traditional and valid uses of private land within the HCNRA, such as ranching, grazing, farming, timber harvesting, and the occupation of homes and lands associated therewith, as they existed at the time the HCNRA was established on December 31, 1975. To this end, the Act directs the Secretary of Agriculture to promulgate regulations establishing standards for the use and development of private land within the HCNRA and grants the Secretary limited condemnation authority to address situations where the standards are not met. The purpose of this subpart is to establish standards that would guide the Secretary's consideration of the use of the limited condemnation authority granted by the Act.

(b) *Scope.* The regulations in this subpart establish standards applicable to all private property within the boundaries of the HCNRA, including that within the boundaries of the Rapid, Snake, and Imnaha Wild and Scenic Rivers and the Hells Canyon Wilderness. The regulations in this subpart do not operate to restrict the use and development of private property; rather, they serve to inform the landowner of those uses that are compatible with purposes for which the HCNRA was established. Uses not compatible with these standards could result in the Secretary acquiring land or interests therein without a landowner's consent.

The regulations in this subpart, in and of themselves, do not effect a taking of private property, including valid, existing water rights, nor do the standards established in this subpart limit or restrict a private landowner's property use that is compatible with the purposes of the Act. The Responsible Official may use the regulations in this subpart solely to determine whether private land uses or developments are compatible with the purposes and direction of the Act and, if not, to determine whether the Secretary should consider initiating condemnation proceedings to acquire land or scenic easements.

§ 292.21 Definitions.

For the purposes of this subpart, the following terms are defined:

Act refers to the act of December 31, 1975, which established the Hells Canyon National Recreation Area (89 Stat. 1117; 16 U.S.C. 460gg–460gg–13).

Archaeological sites are those sites containing relics, artifacts, and other

evidence of past human cultures including historic properties as defined by the National Historic Preservation Act.

Commercial land is land within the HCNRA developed for commercial purposes as of June 13, 1994 and which is assigned to the commercial land category (§ 292.22).

Condemnation is the acquisition of lands or interests therein by the Secretary without the consent of the owner. In the case of the Act, condemnation is a limited authority that may be exercised by the Secretary only in the event that a standard or standards set forth herein are violated for all private land categories except mining lands. Where mining lands are involved, the Secretary may exercise his or her condemnation authority notwithstanding the fact that the mining land owner has complied with the relevant standards of this section.

Conservation easement or *Scenic easement* as defined in Section 9(d) of the Act ''means the right to control the use of land in order to protect aesthetic values for the purposes of this Act, but shall not be acquired without the consent of the owner to preclude the continuation of any farming or pastoral use exercised by the owner as of the date of enactment of this Act.''

Dude ranching is a business oriented primarily towards furnishing small groups with an outdoor recreational and educational experience associated with ranching activities and perpetuates the purposes for which the HCNRA was established. Dude ranching is subservient to the primarily recognized ranching operation.

Existing uses are those uses of or developments to private land as of the date of enactment of the Act on December 31, 1975.

Farm/Forest/Grazing lands are those lands used for farm, forest, and grazing purposes, for maintaining watersheds as fish and wildlife habitat, or for providing outdoor recreational activities. All such lands are assigned to the Farm/Forest/Grazing land category in § 292.22.

Farm/Forest/Grazing Use is any traditional agricultural, silvicultural, or livestock management use or combination thereof on farm/forest/grazing lands within the HCNRA. This includes, but is not limited to, truck farming, growing and harvesting of timber, grazing of livestock, horticultural use, animal husbandry use, horse, cattle, and sheep ranching, and preparation and storage of the products raised on farm/forest/grazing land for on-site use or for disposal by marketing or otherwise. Farm/forest/grazing uses may also consist of uses related to and in furtherance of the protection of watersheds, maintenance of fish and wildlife habitat, and the pursuit of recreational activities.

Hazardous substance includes any material so classified under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.).

Mining lands are lands primarily used for mining purposes as of June 13, 1994 and which are assigned to the mining land category in § 292.22.

Outdoor recreational activities are activities such as camping, picnicking, rafting, boating, hiking, rock climbing, fishing, hunting, horseback riding, and the viewing of wildlife or scenery.

Parcel as used in this subpart refers to contiguous tax lots under one ownership. For the purposes of this subpart, rights-of-way do not divide parcels into smaller units.

Partition is the division of land into lots, and which, under county planning ordinances, is identified by a map, drawing, or writing which contains the descriptions, locations, specifications, and dedications for roads, utilities, etc. and which has been properly filed with the County recorder.

Private land is land not in federal, state, or local government ownership.

Proposed uses are those uses of or development to a private land parcel within the HCNRA initiated after June 13, 1994.

Ranger is the HCNRA Area Ranger, Wallowa-Whitman National Forest, with offices located in Enterprise, Oregon, Riggins, Idaho, and Clarkston, Washington, except for the Rapid Wild and Scenic River where the term refers to the Salmon River District Ranger, Nez Perce National Forest, located in Whitebird, Idaho.

Recreational facilities are facilities associated with or required for outdoor

recreational activities and include, but are not limited to, parks, campgrounds, hunting and fishing lodges, and interpretive displays.

Residential lands are lands within the HCNRA developed for residential purposes as of June 13, 1994 and which are assigned to the Residential land category in § 292.22.

Scenic Easement. See *Conservation Easement*.

Screening is the reduction or elimination of the visual impact of any structure or land modification as seen from any public travel route within the HCNRA.

Solid waste is discarded solid materials resulting from mining, industrial, commercial, agricultural, silvicultural, and community activities. This term does not include domestic sewage or pollutants such as silt or dissolved materials in irrigation return flows.

Structure is any permanent building or facility, or part thereof such as barns, outhouses, residences and storage sheds. This includes electric transmission line systems, substations, commercial radio transmitters, relays or repeater stations, antennas, and other electronic sites and associated structures.

Traditional uses are ranching, grazing, farming, timber harvesting and the occupation of homes and land associated therewith within the HCNRA, or other activities including outdoor recreational activities and facilities, which existed on or before December 31, 1975.

Travel route is a route, such as a county or National Forest system road or river or trail, that is open for use by members of the general public.

§ 292.22 Land category assignments.

(a) *Land categories*. (1) All privately owned lands within the HCNRA are to be assigned to one of the following four land categories:

(i) Farm/forest/grazing land.

(ii) Mining land.

(iii) Residential land.

(iv) Commercial land.

(2) Not later than August 12, 1994, a map or maps displaying the privately owned lands within the HCNRA and the land categories to which they have been assigned must be on file and available for public inspection at the Ranger's office. The Ranger shall give notice of the availability of this map or maps in the local newspapers of record.

(b) *Changes in land category assignment*. Lands assigned to the Commercial, Residential, or Mining category may be reclassified as farm/forest/grazing land so long as the intended use or development is consistent with the standards in § 292.23 and the Ranger has given public notice of the proposed change in the local newspaper of record and has notified adjacent landowners and the affected county government at least 30 days prior to any decision on the proposed change.

§ 292.23 Standards of compatible land use and development.

Private land use that conforms to the standards of this section is deemed to be compatible with the purpose for which the HCNRA was established.

(a) *Standards applicable to all private lands*. As of June 13, 1994, the use and development of private lands in all land categories within the HCNRA is deemed compatible with the purposes for which the HCNRA was established, if the use and development of such lands meets the following standards:

(1) Use and development conforms to applicable local, state, and federal environmental, natural resource, cultural resource, and land use development law.

(2) All new or replacement structures are screened and/or constructed of materials that blend with the natural environment, except where structures typify the architectural style and materials of a significant historic era such as pre-World War II. Screening is not required, however, for new or replacement structures that are associated with an existing unscreened structure or structures that were not screened at the time this rule became effective.

(3) No public or commercial solid waste disposal sites or hazardous substance disposal sites are located on private lands within the HCNRA.

(4) All new or replacement utility lines are placed underground where ground conditions and topography permit. This standard does not prevent or impair routine maintenance of utility

lines or related structures in existence prior to June 13, 1994.

(5) No new or replacement structures are developed within the boundaries of the Hells Canyon Wilderness, provided that existing structures may be repaired and/or maintained.

(6) Significant historic, archaeologic, or paleontologic sites are protected.

(7) Sites used for the extraction of common mineral materials, such as gravel, for construction and maintenance purposes on all except designated mining lands, are screened where possible, and are not in excess of 2 acres in size.

(8) New recreational facilities enhance and are compatible with the purpose of the Act.

(b) *Farm/forest/grazing lands standards.* The following additional standards are applicable to farm/forest/grazing lands:

(1) Except as otherwise provided in this paragraph, the minimum lot size for residential development is 160 acres. Only residences associated with farm/forest/grazing uses may be developed. Partitions of less than 160 acres may be made to provide for the continuation of existing commercial agriculture, but such partitions may not be developed for residential use. Lots of less than 160 acres existing on June 13, 1994, with residences permanently affixed to a foundation or basement, are considered to be in compliance.

(2) Structures are limited to those necessary to conduct farm/forest/grazing use.

(3) Dude ranching is permitted provided it is compatible with the purpose and direction of the Act and is part of a recognized ranching operation.

(4) New or replacement structures for farm/forest/grazing use are not closer than 25 feet from a property line or 55 feet from the center line of a travel route.

(c) *Mining Lands.* (1) The following standards are applicable to mining lands:

(i) The owner of mining lands must consult with the Ranger concerning proposed mineral development activities prior to submitting a plan of operations to the relevant state or federal agencies.

(ii) Operations comply with Federal and State mining, air quality, water quality, hazardous waste, water disposal and reclamation standards.

(iii) The type and number of structures, including but not limited to residences associated with the mining activity, are limited to the minimum necessary for the use and development of the mining lands.

(iv) No new structures are located closer than 25 feet from a property line or 55 feet from the center line of a travel route.

(v) Mining lands are not partitioned.

(2) Notwithstanding compliance with the standards of paragraph (c)(1) of this section, the Secretary may acquire mineral interests in the HCNRA without the consent of the owner, if the Secretary deems this necessary to meet the purposes for which the HCNRA was established.

§ 292.24 Determination of compliance and noncompliance.

(a) *Compliance.* Landowners may request a determination by the Forest Service as to whether an existing or a proposed use or development complies with the relevant standards set out in this subpart.

(1) Requests for a determination of compliance must be made in writing to the Ranger and include the following information:

(i) The current land category to which the land is assigned (§ 292.23);

(ii) The use of development that exists or that is proposed for the property;

(iii) A statement as to whether a change in the land category assignment will be necessary to accommodate the proposed use or development;

(iv) The timeframe for implementing the proposed use or development; and

(v) A statement as to how the proposed use or development satisfies the relevant standards of § 292.23 of this subpart.

(2) The Ranger shall review the request and notify the landowner in writing within 45 days whether the existing or proposed use or development is in compliance with § 292.23 of this subpart. The Ranger may extend the time for making a compliance determination by 30 days if additional information is needed.

(b) *Noncompliance.* (1) In the event that the Forest Service determines that an existing or proposed use of development is not in compliance with the standards of § 292.23 of this subpart, the Ranger shall give the landowner written notice of the manner and nature of noncompliance. To the extent practicable, the notice will include suggestions for achieving compliance. The notice also must include a statement that the violation of a standard or standards and the failure to cure such violation may result in the initiation of condemnation proceedings by the Secretary.

(2) The Forest Service may initiate a noncompliance determination on its own without having first received a landowner request.

(c) *Written petition.* The landowner may file a written petition with the Forest Supervisor for a review of a decision of compliance or noncompliance. The Forest Supervisor shall render a decision within 30 days of the receipt of the petition. A decision by the Forest Supervisor constitutes the final administrative determination by the Department of Agriculture. Petitions of decisions on lands within the Rapid River Wild and Scenic River Corridor should be addressed to the Forest Supervisor, Nez Perce National Forest, Route 2, P.O. Box 475, Grangeville, Idaho 83450. All other petitions should be addressed to the Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker City, Oregon 97814.

§ 292.25 Information requirements.

The information required by § 292.24 of this subpart in order for a landowner to obtain a determination of compliance constitutes an information requirement as defined in the Paperwork Reduction Act (44 U.S.C. 3507) and has been approved for use by the Office of Management and Budget and assigned control number 0596–0135.

Subpart F—Hells Canyon National Recreation Area—Federal Lands

AUTHORITY: 16 U.S.C. 460gg–7.

SOURCE: 59 FR 36882, July 19, 1994, unless otherwise noted.

§ 292.40 Purpose and scope.

(a) *Purpose.* The rules of this subpart establish standards and guidelines for the protection and preservation of historic, archeological, and paleontological resources, the use of motorized and mechanical equipment, the use of motorized and non-motorized rivercraft, and the management, utilization, and disposal of natural resources by timber harvesting, mining and grazing on National Forest System lands that comprise the Hells Canyon National Recreation Area located in the Wallowa-Whitman, Nez Perce, and Payette National Forests in the States of Idaho and Oregon as established by the Act of December 31, 1975, as amended (89 Stat. 1117, 16 U.S.C. 460gg *et seq.*).

(b) *Scope.* Management of National Forest System lands within the Hells Canyon National Recreation Area is subject to all laws, rules, and regulations applicable to the national Forest System, except as otherwise provided in this subpart. In the event of a conflict of inconsistency between rules of this subpart and other rules within this title, the rules of this subpart shall take precedence to the extent permitted by law.

§ 292.41 Definitions.

Special terms used in this subpart are defined as follows:

Act means the Act of December 31, 1975, as amended (Pub. L. 94–199, 89 Stat. 1117) which established the Hells Canyon National Recreation Area.

Authorized Officer is a Forest Service line officer who has been delegated the authority to take certain actions pursuant to the provisions of this subpart.

Comprehensive Management Plan is the document that establishes the array, levels, and manner of resource uses within the HCNRA. It is incorporated as part of the Wallowa-Whitman National Forest Land and Resource Management Plan.

Cultural resources means historic and archeological resources.

HCNRA is the abbreviation for the Hells Canyon National Recreation Area.

Mechanical equipment means any contrivance which travels over ground, snow or water on wheels, tracks, skids,

or by flotation that is powered by a living source. This term does not include non-motorized rivercraft which is defined separately herein, wheelchairs, or other similar devices used solely to assist persons with disabilities.

Mining means any activity related to the discovery, extraction and exploitation of minerals under the Mining Act of 1872, 30 U.S.C. 22 *et seq.*, and the Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, through the use of, among other things, hydraulic equipment, pans, ground sluicing, sluice boxes, rockers, or suction dredges.

Motorized equipment means any machine powered by a nonliving source. This term does not include motorized rivercraft which is defined separately herein or small, hand-held devices such as flashlights, shavers, wristwatches, and Geiger counters.

Motorized rivercraft means any boat capable of being mechanically propelled by propeller(s) or jet pump(s) upstream through rapids.

Non-Motorized rivercraft means any boat which is not a motorized rivercraft.

Other lands means all National Forest System lands in the HCNRA except for Wild and Scenic Rivers and Wilderness Lands.

Paleontological resources means any remains, trace, or imprint of a plant or animal that has been preserved in the Earth's crust prior to the Holocene epoch.

Selective cutting means single tree or group selection cutting and is the periodic removal of trees individually or in small groups from an uneven aged forest in order to maintain diverse stands, with the sustainability and improvement of the forest using an ecosystem approach to management being a primary consideration.

Suitable means it is appropriate to apply certain resource management practices to a particular area of land, as determined by an ecological and environmental analysis of the land. A unit of land may be suitable for a variety of individual or combined management practices.

Wild and Scenic Rivers means the segments of the Snake, Rapid, and Imnaha Rivers designated as components of the National Wild and Scenic Rivers System and any other river or segment thereof in the HCNRA hereafter designated. Wild and Scenic Rivers include all National Forest System lands within the designated Wild and Scenic River corridor.

Wilderness lands means the Hells Canyon Wilderness, that portion of the Eagle Cap Wilderness in the HCNRA, and any other wilderness in the HCNRA hereafter designated as components of the National Wilderness Preservation System.

§ 292.42 Management standards and guidelines.

(a) In addition to existing statutory and regulatory authority governing administration of National Forest System lands and resources, the standards and guidelines in §§ 292.43 to 292.48 of this subpart prescribe the scope and extent of certain activities that may occur in the HCNRA. These standards and guidelines are consistent with the overall objective of administering the HCNRA to preserve its natural beauty, historical and archaeological values and enhance its recreational and ecological values and the public's enjoyment. The standards and guidelines may vary depending on whether the land where the proposed activity is contemplated is within the Wilderness Lands, Wild and Scenic Rivers, or the Other Lands.

(b) The standards and guidelines of this subpart govern the previous programmatic direction in the Comprehensive Management Plan that has been incorporated into the Wallowa-Whitman National Forest Land and Resource Management Plan. Site specific environmental analysis may be required even in those situations where a use or activity is permissible under the standards and guidelines set forth in this subpart.

(c) The standards and guidelines of this subpart may be enforced by the authorized officer pursuant to 36 CFR part 261.

§ 292.43 Protection and preservation of cultural and paleontological resources.

(a) Other Lands and Wild and Scenic Rivers. The following standards and guidelines of this section apply to the

protection and preservation of cultural and paleontological resources on the Other Lands and the Wild and Scenic Rivers in the HCNRA:

(1) The primary objective of managing cultural resources is the protection of the resource from damage or destruction. To the extent consistent with protection, cultural resources may also be managed for scientific research, public education and enjoyment. Where interpretation of these sites for public benefit and knowledge is developed, it shall be compatible with the protection of cultural resources.

(2) The authorized officer shall establish priorities for management emphasis and protection of cultural resources based, in part, on whether the appropriate State Historic Preservation Office has concurred with the Forest Service's determination that a cultural resource is significant.

(3) Significant cultural resources are to be protected on-site, unless the authorized officer determines that off-site protection is preferable because adequate protection cannot be provided on-site, the resource is already adequately represented and protected on-site elsewhere, protection on-site is not consistent with the administration of Wilderness Lands, or for other good cause shown. Information about significant cultural resources shall be documented.

(4) The primary objective of managing paleontological resources is scientific research. Paleontological resources may only be disturbed or removed in conjunction with scientific research and only upon the issuance of prior written authorization of the disturbance or removal activity.

(b) *Wilderness Lands.* The following standards and guidelines apply to the protection and preservation of cultural and paleontological resources in the Wilderness Lands category of the HCNRA.

(1) The standards and guidelines for Other Lands and Wild and Scenic Rivers in paragraph (a) of this section also apply to Wilderness Lands.

(2) Public education and information activities concerning cultural resources on Wilderness Lands may not be offered or established inside Wilderness Lands.

(3) New trails and relocations of existing trails may not be developed for the sole purpose of providing public access to cultural resource sites on Wilderness Lands.

§ 292.44 Use of motorized and mechanical equipment.

The standards and guidelines of this section apply to the use of motorized and mechanical equipment in the HCNRA. These standards and guidelines shall not be construed to impair or preclude use of such equipment in the Forest Service's administration of the HCNRA; authorized scientific and other research activities within the HCNRA; timber harvesting, mining, or grazing activities as authorized in §§ 292.46–292.48 of this subpart; responses by the Forest Service or any other Federal, state, or local agency to public health or safety emergencies; or access to private inholdings within the HCNRA.

(a) *Other Lands.* The following standards and guidelines apply to the use of motorized and mechanical equipment in the Other Lands category of the HCNRA.

(1) Motorized and mechanical equipment may be used on designated Forest Service roads, trails, and airstrips subject to terms and conditions deemed necessary by the authorized officer for the safe use of such facilities.

(2) The use of motorized and mechanical equipment is prohibited off of designated Forest Service roads, trails, and airstrips unless authorized by the authorized officer subject to terms and conditions deemed necessary by the authorized officer for the safe use of such equipment and to ensure that its use is compatible with the Act.

(b) *Wild and Scenic Rivers.* The following standards and guidelines apply to the use of motorized and mechanical equipment in the Wild and Scenic Rivers category in the HCNRA.

(1) The use of motorized and mechanical equipment on designated Forest Service roads, trails and airstrips is permissible on wild and scenic river segments classified ''scenic'' or ''recreational'' subject to terms and conditions necessary for safe use of such

equipment and to ensure its use is compatible with the Wild and Scenic Rivers Act.

(2) The use of motorized and mechanical equipment on designated Forest Service roads, trails, and airstrips is prohibited on wild and scenic river segments classified ''wild'' except as provided for by the authorized officer upon a determination that such use is necessary for the administration of the river or to protect and enhance the values for which river was designated.

(c) *Wilderness Lands.* Except as provided for in Sections 4 (c) and (d) of the Wilderness Act and regulations at 36 CFR parts 261 and 293, the use of motorized and mechanical equipment is prohibited on Wilderness Lands.

§ 292.45 Use of motorized and non-motorized rivercraft.

The standards and guidelines of this section apply to the use of motorized and non-motorized rivercraft on rivers within the HCNRA.

(a) The use of non-motorized rivercraft may be permitted subject to restrictions on size, type of craft, numbers, duration, seasons, or other matters which may be deemed by the authorized officer to be necessary to ensure the safe use and enjoyment of the rivers: Provided, that where wild and scenic rivers are concerned, the authorized officer may impose such additional terms and conditions as may be necessary to protect and enhance the values for which the river was designated.

(b) The use of motorized rivercraft is prohibited except on the Snake River and that portion of the Salmon River in the HCNRA administered by the Forest Service where such activity may be permitted subject to restrictions on size, type of craft, numbers, noise limits, duration, seasons or other matters which may be deemed by the authorized officer necessary for the safe use and enjoyment of the rivers: Provided, that where wild and scenic rivers are involved, the authorized officer may impose such additional terms and conditions as may be necessary to protect and enhance the values for which the river was designated.

(c) The use of motorized and non-motorized rivercraft is subject to all federal and state boating registration and safety laws.

(d) The use of motorized or non-motorized rivercraft on the Snake River and that portion of the Salmon River in the HCNRA administered by the Forest Service requires prior written authorization from the authorized officer.

(e) In authorizing the use of motorized and non-motorized rivercraft on the Snake River, the authorized officer must reasonably accommodate both private and commercial users of each type of rivercraft.

(f) In authorizing the use of motorized and non-motorized rivercraft on the Snake River, the authorized officer must ensure that the carrying capacity of the river is not exceeded.

(g) In authorizing the use of motorized and non-motorized rivercraft on the Snake River, the authorized officer shall seek to minimize, where practicable, conflicts between motorized and non-motorized rivercraft users and between both types of rivercraft users and all other users of the river.

§ 292.46 Timber harvesting activities.

(a) *Other Lands.* The standards and guidelines of this section apply to timber harvesting activities in the Other Lands category of the HCNRA.

(1) Timber may be harvested only to protect and enhance ecosystem health, wildlife habitat, or recreational and scenic uses; to reduce the risk of harm posed by hazard trees; or to respond to natural events such as wildfire, flood, earthquake, volcanic eruption, high winds, and disease or insect infestation.

(2) Where authorized, trees may be harvested by selective cuttings. Openings created by the timber harvesting activity must be limited in size and number to the minimum necessary to accomplish the purpose of the harvest, and must blend with the natural landscape to the extent practicable.

(b) *Wild and Scenic Rivers.* The following standards and guidelines apply to timber harvesting activities in the Wild and Scenic Rivers category of the HNCRA.

(1) Timber may be harvested on river segments classified ''scenic'' or ''recreational'' to protect and enhance the

values for which the river was designated.

(2) Timber may be harvested on river segments classified ''wild'' only when necessary to provide for recreational facilities such as trails, to reduce the risk of hazard trees, or to respond to natural events provided that the activity is consistent with the Wild and Scenic Rivers Act.

(3) Where authorized, timber harvesting activities on wild and scenic rivers may be conducted in accordance with and using the same methods as prescribed in section (a)(2) above.

(c) *Wilderness Lands.* Except as provided for in Sections 4 (c) and (d) of the Wilderness Act and regulations at 36 CFR part 293, timber harvesting is prohibited on Wilderness Lands.

§ 292.47 Mining activities.

(a) *Other Lands.* The standards and guidelines of this section apply to mining activities in the Other Lands category of the HCNRA.

(1) All mining activities are prohibited subject to valid existing rights as of December 31, 1975.

(2) The impact of mining activities including, but not limited to, drilling and the development of ingress and egress routes, must be minimized and directed away from Wilderness Lands and Wild and Scenic Rivers to the extent practicable.

(3) Mineral materials including, but not limited to common varieties of gravel, sand, or stone, may be used only within the HCNRA for the purpose of construction and maintenance of facilities including, but not limited to, roads, airfields, trails, and recreation developments.

(4) Sources of mineral materials should be located outside the HCNRA. Sources for mineral materials that may be used to benefit the HCNRA may be located inside the HCNRA if the cost of obtaining the materials outside the HCNRA adds significantly to the costs of the materials, or the transportation of mineral materials from outside the HCNRA presents a safety hazard. When mineral materials are obtained from inside the HCNRA, the environmental effects at the source of extraction must be mitigated by site reclamation upon the termination of the extraction activity. Site reclamation may include contouring the land, re-establishing vegetation, and other measures deemed appropriate by the authorized officer to blend the site into the surrounding environment to the extent practicable. The HCNRA shall not be the source of mineral materials for use outside the HCNRA for projects that do not directly benefit the HCNRA.

(b) *Wilderness Lands and Wild and Scenic Rivers.* The standards and guidelines of this section apply to mining activities in the Wilderness Lands and Wild and Scenic Rivers categories of the HCNRA.

(1) The standards and guidelines for Other Lands in paragraphs (a)(1) and (2) of this section also apply to Wilderness Lands and Wild and Scenic Rivers.

(2) Extraction of mineral materials is prohibited on Wilderness Lands and Wild and Scenic Rivers subject to valid existing rights.

§ 292.48 Grazing activities.

The following standards and guidelines apply to domestic livestock grazing activities on Other Lands, Wild and Scenic Rivers, and Wilderness Lands in the HCNRA.

(a) Grazing may be authorized only on rangeland determined by the authorized officer to be suitable for grazing and meeting or moving towards satisfactory condition and meeting the conditions described in paragraph (b) of this section.

(b) Where domestic livestock grazing is incompatible with the protection, restoration, or maintenance of fish and wildlife or their habitats; public outdoor recreation; conservation of scenic, wilderness, and scientific values; rare combinations of outstanding ecosystems, or the protection and enhancement of the values for which a wild and scenic river was designated, the livestock use shall be modified as necessary to eliminate or avoid the incompatibility. In the event an incompatibility persists after the modification or modification is not feasible, the livestock use shall be terminated.

(c) Range improvements must be designed and located to minimize their impact on scenic, cultural, fish and wildlife, and other resources in the HCNRA.

(d) The authorization of grazing use, through a grazing permit, must provide for terms and conditions which protect and conserve riparian areas.

Subpart G—Smith River National Recreation Area

AUTHORITY: 16 U.S.C. 460bbb *et seq.*

SOURCE: 63 FR 15059, Mar. 27, 1998, unless otherwise noted.

§ 292.60 Purpose and scope.

(a) *Purpose.* The regulations of this subpart set forth the rules and procedures by which the Forest Service regulates mineral operations on National Forest System lands within the Smith River National Recreation Area as established by Congress in the Smith River National Recreation Area Act of 1990 (16 U.S.C. 460bbb *et seq.*).

(b) *Scope.* The rules of this subpart apply only to mineral operations on National Forest System lands within the Smith River National Recreation Area.

(c) *Applicability of other rules.* The rules of this subpart supplement existing Forest Service regulations concerning the review, approval, and administration of mineral operations on National Forest System lands including, but not limited to, those set forth at parts 228, 251, and 261 of this chapter.

(d) *Conflicts.* In the event of conflict or inconsistency between the rules of this subpart and other parts of this chapter, the rules of this subpart take precedence, to the extent allowable by law.

§ 292.61 Definitions.

The special terms used in this subpart have the following meaning:

Act means the Smith River National Recreation Area Act of 1990 (16 U.S.C. 460bbb *et seq.*).

Authorized officer means the Forest Service officer to whom authority has been delegated to take actions pursuant to the provisions of this subpart.

Hazardous material means any hazardous substance, pollutant, contaminant, hazardous waste, and oil or other petroleum products, as those terms are defined under any Federal, State, or local law or regulation.

Outstanding mineral rights means the rights owned by a party other than the surface owner at the time the surface was conveyed to the United States.

SRNRA is the abbreviation for the Smith River National Recreation Area, located within the Six Rivers National Forest, California.

§ 292.62 Valid existing rights.

(a) *Definition.* For the purposes of this subpart, valid existing rights are defined as follows:

(1) *For certain ''Wild'' River segments.* The rights associated with all mining claims on National Forest System lands within the SRNRA in ''wild'' segments of the Wild and Scenic Smith River, Middle Fork Smith River, North Fork Smith River, Siskiyou Fork Smith River, South Fork Smith River, and their designated tributaries, except Peridotite Creek, Harrington Creek, and the lower 2.5 miles of Myrtle Creek, which:

(i) Were properly located prior to January 19, 1981;

(ii) Were properly maintained thereafter under the applicable law;

(iii) Were supported by a discovery of a valuable mineral deposit within the meaning of the United States mining laws prior to January 19, 1981, which discovery has been continuously maintained since that date; and

(iv) Continue to be valid.

(2) *For Siskiyou Wilderness.* The rights associated with all mining claims on National Forest System lands within the SRNRA in the Siskiyou Wilderness except, those within the Gasquet-Orleans Corridor addition or those rights covered by paragraph (a)(1) of this section which:

(i) Were properly located prior to September 26, 1984;

(ii) Were properly maintained thereafter under the applicable law;

(iii) Were supported by a discovery of a valuable mineral deposit within the meaning of the United States mining laws prior to September 26, 1984, which discovery has been continuously maintained since that date; and

(iv) Continue to be valid.

(3) *For all other lands.* The rights associated with all mining claims on National Forest System lands in that portion of the SRNRA not covered by

paragraph (a)(1) or (a)(2) of this section which:

(i) Were properly located prior to November 16, 1990;

(ii) Were properly maintained thereafter under the applicable law;

(iii) Were supported by a discovery of a valuable mineral deposit within the meaning of the United States mining laws prior to November 16, 1990, which discovery has been continuously maintained since that date; and

(iv) Continue to be valid.

(b) *Operations to confirm discovery.* The authorized officer shall authorize those mineral operations that may be necessary for the purpose of gathering information to confirm or otherwise demonstrate the discovery of a valuable mineral deposit consistent with the definition in paragraph (a) of this section or to obtain evidence for a contest hearing regarding the claim's validity, upon receipt of a proposed plan of operations as defined in § 292.63 of this subpart to conduct such operations and of sufficient information from the operator to show an exposure of valuable minerals on a claim that predates the withdrawal of the federal land from the operation of the United States mining laws. The authorized officer shall authorize only those operations that may be necessary to confirm or demonstrate the discovery of a valuable mineral deposit prior to the date of withdrawal of the federal land on which the claim is situated. Pursuant to this paragraph, the authorized officer shall not authorize any operations which would constitute prospecting, exploration, or otherwise uncovering or discovering a valuable mineral deposit.

LOCATABLE MINERALS

§ 292.63 Plan of operations—supplementary requirements.

(a) *Applicability.* In addition to the activities for which a plan of operations is required under § 228.4 of this chapter, a plan of operations is required when a proposed operation within the SRNRA involves mechanical or motorized equipment, including a suction dredge and/or sluice.

(b) *Information to support valid existing rights.* A proposed plan of operations within the SRNRA must include at least the following information on the existence of valid existing rights:

(1) The mining claim recordation serial number assigned by the Bureau of Land Management;

(2) A copy of the original location notice and conveyance deeds, if ownership has changed since the date of location;

(3) A copy of affidavits of assessment work or notices of intention to hold the mining claim since the date of recordation with the Bureau of Land Management;

(4) Verification by the Bureau of Land Management that the holding or maintenance fees have been paid or have been exempted;

(5) Sketches or maps showing the location of past and present mineral workings on the claims and information sufficient to locate and define the mining claim corners and boundaries on the ground;

(6) An identification of the valuable mineral that has been discovered;

(7) An identification of the site within the claims where the deposit has been discovered and exposed;

(8) Information on the quantity and quality of the deposit including copies of assays or test reports, the width, locations of veins, the size and extent of any deposit; and

(9) Existing evidence of past and present sales of the valuable mineral.

(c) *Minimum information on proposed operations.* In addition to the requirements of paragraph (b) of this section, a plan of operations must include the information required at §§ 228.4 (c)(1) through (c)(3) of this chapter which includes information about the proponent and a detailed description of the proposed operation. In addition, if the operator and claim owner are different, the operator must submit a copy of the authorization or agreement under which the proposed operations are to be conducted. A plan of operations must also address the environmental requirements of § 228.8 of this chapter which includes reclamation. In addition, a plan of operations also must include the following:

(1) An identification of the hazardous materials and any other toxic materials, petroleum products, insecticides, pesticides, and herbicides that will be

used during the mineral operation, and the proposed means for disposing of such substances;

(2) An identification of the character and composition of the mineral wastes that will be used or generated and a proposed method or strategy for their placement, control, isolation, or removal; and

(3) An identification of how public health and safety are to be maintained.

§ 292.64 Plan of operations—approval.

(a) *Timeframe for review.* Except as provided in paragraph (b) of § 292.62 of this subpart, upon receipt of a plan of operations, the authorized officer shall review the information related to valid existing rights and notify the operator in writing within 60 days of one of the following situations:

(1) That sufficient information on valid existing rights has been provided and the anticipated date by which the valid existing rights determination will be completed, which shall not be more than 2 years after the date of notification; unless the authorized officer, upon finding of good cause with written notice and explanation to the operator, extends the time period for completion of the valid existing rights determination.

(2) That the operator has failed to provide sufficient information to review a claim of valid existing rights and, therefore, the authorized officer has no obligation to evaluate whether the operator has valid existing rights or to process the operator's proposed plan of operations.

(b)(1) If the authorized officer concludes that there is not sufficient evidence of valid existing rights, the officer shall so notify the operator in writing of the reasons for the determination, inform the operator that the proposed mineral operation cannot be conducted, advise the operator that the Forest Service will promptly notify the Bureau of Land Management of the determination and request the initiation of a mineral contest action against the pertinent mining claim, and advise the operator that further consideration of the proposed plan of operations is suspended pending final action by the Department of the Interior on the operator's claim of valid existing rights and any final judicial review thereof.

(2) If the authorized officer concludes that there is not sufficient evidence of valid existing rights, the authorized officer also shall notify promptly the Bureau of Land Management of the determination and request the initiation of a mineral contest action against the pertinent mining claims.

(c) An authorized officer's decision pursuant to paragraph (b) of this section that there is not sufficient evidence of valid existing rights is not subject to further agency or Department of Agriculture review or administrative appeal.

(d) The authorized officer shall notify the operator in writing that the review of the remainder of the proposed plan will proceed if:

(1) The authorized officer concludes that there is sufficient evidence of valid existing rights;

(2) Final agency action by the Department of the Interior determines that the applicable mining claim constitutes a valid existing right; or

(3) Final judicial review of final agency action by the Department of the Interior finds that the applicable mining claim constitutes a valid existing right.

(e) Upon completion of the review of the plan of operations, the authorized officer shall ensure that the minimum information required by § 292.63(c) of this subpart has been addressed and, pursuant to § 228.5(a) of this chapter, notify the operator in writing whether or not the plan of operations is approved.

(f) If the plan of operations is not approved, the authorized officer shall explain in writing why the plan of operations cannot be approved.

(g) If the plan of operations is approved, the authorized officer shall establish a time period for the proposed operations which shall be for the minimum amount of time reasonably necessary for a prudent operator to complete the mineral development activities covered by the approved plan of operations.

(h) An approved plan of operations is subject to review and modification as follows:

(1) To bring the plan into conformance with changes in applicable federal law or regulation; or

(2) To respond to new information not available at the time the authorized officer approved the plan, for example, new listings of threatened or endangered species; or

(3) To correct errors or omissions made at the time the plan was approved, for example, to ensure compliance with applicable federal law or regulation; or

(4) To permit operations requested by the operator that differ in type, scope, or duration from those in an approved plan of operations but that are not subject to paragraph (i) of this section.

(i) If an operator desires to conduct operations that differ in type, scope, or duration from those in an approved plan of operations, and if those changes will result in resource impacts not anticipated when the original plan was approved, the operator must submit a supplemental plan or a modification of the plan for review and approval.

§ 292.65 Plan of operations—suspension.

(a) The authorized officer may suspend mineral operations due to an operator's noncompliance with applicable statutes, regulations, or terms and conditions of the approved plan of operations.

(1) In those cases that present a threat of imminent harm to public health, safety, or the environment, or where such harm is already occurring, the authorized officer may take immediate action to stop the threat or damage without prior notice. In such case, written notice and explanation of the action taken shall be given the operator as soon as reasonably practicable following the suspension.

(2) In those cases that do not present a threat of imminent harm to public health, safety, or the environment, the authorized officer must first notify the operator in writing of the basis for the suspension and provide the operator with reasonably sufficient time to respond to the notice of the authorized officer or to bring the mineral operations into conformance with applicable laws, regulations, or the terms and conditions of the approved plan of operations.

(b) Except as otherwise provided in this section, the authorized officer shall notify the operator not less than 30 days prior to the date of the proposed suspension.

OUTSTANDING MINERAL RIGHTS

§ 292.66 Operating plan requirements—outstanding mineral rights.

(a) Proposals for mineral operations involving outstanding mineral rights within the SRNRA must be documented in an operating plan and submitted in writing to the authorized officer.

(b) An operating plan for operations involving outstanding mineral rights within the SRNRA must include the following:

(1) The name and legal mailing address of the operator, owner, and any lessees, assigns, and designees;

(2) A copy of the deed or other legal instrument that conveyed the outstanding mineral rights;

(3) Sketches or maps showing the location of the outstanding mineral rights, the proposed area of operations, including, but not limited to, existing and/or proposed roads or access routes identified for use, any new proposed road construction, and the approximate location and size of the areas to be disturbed, including existing or proposed structures, facilities, and other improvements to be used;

(4) A description of the type of operations which includes, at a minimum, a list of the type, size, location, and number of structures, facilities, and other improvements to be used;

(5) An identification of the hazardous materials and any other toxic materials, petroleum products, insecticides, pesticides, and herbicides that will be used during the mineral operation and the proposed means for disposing of such substances;

(6) An identification of the character and composition of the mineral wastes that will be used or generated and a proposed method or strategy for their placement, control, isolation, remediation, or removal; and

(7) A reclamation plan to reduce or control on-site and off-site damage to

natural resources resulting from mineral operations. The plan must:

(i) Provide reclamation to the extent practicable;

(ii) Show how public health and safety are maintained;

(iii) Identify and describe reclamation measures to include, but not limited to, the following:

(A) Reduction and/or control of erosion, landslides, and water runoff;

(B) Rehabilitation of wildlife and fisheries habitat to be disturbed by the proposed mineral operation; and

(C) Protection of water quality.

(iv) Demonstrate how the area of surface disturbance will be reclaimed to a condition or use that is consistent with the Six Rivers National Forest Land and Resource Management Plan.

§ 292.67 Operating plan approval—outstanding mineral rights.

(a) Upon receipt of an operating plan, the authorized officer must review the information related to the ownership of the outstanding mineral rights and notify the operator that:

(1) Sufficient information on ownership of the outstanding mineral rights has been provided; or

(2) Sufficient information on ownership of outstanding mineral rights has not been provided, including an explanation of the specific information that still needs to be provided, and that no further action on the plan of operations will be taken until the authorized officer's receipt of the specified information.

(b) If the review shows outstanding mineral rights have not been verified, the authorized officer must notify the operator in writing that outstanding mineral rights have not been verified, explain the reasons for such a finding, and that the proposed mineral operation cannot be conducted.

(c) If the review shows that outstanding mineral rights have been verified, the authorized officer must notify the operator in writing that outstanding mineral rights have been verified and that review of the proposed operating plan will proceed.

(d) The authorized officer shall review the operating plan to determine if all of the following criteria are met:

(1) The operating plan is consistent with the rights granted by the deed;

(2) The operating plan is consistent with the Six Rivers National Forest Land and Resource Management Plan; and

(3) The operating plan uses only so much of the surface as is necessary for the proposed mineral operations.

(e) Upon completion of the review of the operating plan, the authorized officer shall notify the operator in writing of one of the following:

(1) The operating plan meets all of the criteria of paragraphs (d)(1) through (d)(3) of this section and, therefore, is approved;

(2) The operating plan does not meet one or more of the criteria in paragraphs (d)(1) through (d)(3) of this section. Where feasible, the authorized officer may indicate changes to the operating plan that would satisfy the criteria in paragraphs (d)(1) through (d)(3) of this section and, thus, if accepted by the operator, would result in approval of the operating plan.

(f) To conduct mineral operations beyond those described in an approved operating plan, the owner or lessee must submit, in writing, an amended operating plan to the authorized officer at the earliest practicable date. New operations covered by the proposed amendment may not begin until the authorized officer has reviewed and responded in writing to the proposed amendment. The authorized officer shall review a proposed amendment of an approved operating plan to determine that the criteria in paragraphs (d)(1) through (d)(3) of this section are met.

MINERAL MATERIALS

§ 292.68 Mineral material operations.

Subject to the provisions of part 228, subpart C, and part 293 of this chapter, the authorized officer may approve contracts and permits for the sale or other disposal of mineral materials, including but not limited to, common varieties of gravel, sand, or stone. However, such contracts and permits may be approved only if the material is not within a designated wilderness area and is to be used for the construction

and maintenance of roads and other facilities within the SRNRA or the four excluded areas identified by the Act.

OTHER PROVISIONS

§ 292.69 Concurrent reclamation.

Plans of operations involving locatable minerals, operating plans involving outstanding mineral rights, and contracts or permits for mineral materials should all provide, to the maximum extent practicable, that reclamation proceed concurrently with the mineral operation.

§ 292.70 Indemnification.

The owner and/or operator of mining claims and the owner and/or lessee of outstanding mineral rights are jointly and severally liable in accordance with Federal and State laws for indemnifying the United States for the following:

(a) Costs, damages, claims, liabilities, judgments, injury and loss, including those incurred from fire suppression efforts, and environmental response actions and cleanup and abatement costs incurred by the United States and arising from past, present, and future acts or omissions of the owner, operator, or lessee in connection with the use and occupancy of the unpatented mining claim and/or mineral operation. This includes acts or omissions covered by Federal, State, and local pollution control and environmental statutes and regulations.

(b) Payments made by the United States in satisfaction of claims, demands, or judgments for an injury, loss, damage, or costs, including for fire suppression and environmental response action and cleanup and abatement costs, which result from past, present, and future acts or omissions of the owner, operator, or lessee in connection with the use and occupancy of the unpatented mining claim and/or mineral operations.

(c) Costs incurred by the United States for any action resulting from noncompliance with an approved plan of operations or activities outside an approved operating plan.

PART 293—WILDERNESS—PRIMITIVE AREAS

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AUTHORITY: 16 U.S.C. 551, 1131–1136 and 92 Stat. 1649.

SOURCE: 38 FR 5855, Mar. 5, 1973, unless otherwise noted.

§ 293.1 Definition.

National Forest Wilderness shall consist of those units of the National Wilderness Preservation System which at least 30 days before the Wilderness Act of September 3, 1964, were designated as Wilderness and Wild under Secretary of Agriculture's Regulations U–1 and U–2 (§§ 251.20, 251.21), the Boundary Waters Canoe Area as designated under Regulation U–3 (§ 294.1), and such other areas of the National Forests as may later be added to the System by act of Congress. Sections 293.1 to 293.15 apply to all National Forest units now or hereafter in the National Wilderness Preservation System, including the Boundary Waters Canoe Area, Superior National Forest, except as that area is subject to § 293.16.

§ 293.2 Objectives.

Except as otherwise provided in the regulations in this part, National Forest Wilderness shall be so administered