

§ 228.52

36 CFR Ch. II (7-1-10 Edition)

time is granted as provided in § 228.53(b), the bond requirements must be recalculated and changed accordingly.

(1) For *advance payment contracts* for 10,000 cubic yards or more in volume (or weight equivalent), a bond of not less than 10 percent of the total contract price or the value of the estimated annual production (whichever is less), plus the reclamation cost for the area covered by annual mining, is required. When the total volume is less than 10,000 cubic yards, bond requirements, if any, are at the discretion of the authorized officer.

(2) For any *deferred payment contract*, a bond equaling the value of the estimated annual production plus the reclamation cost for the area covered by annual mining is required.

(3) For *free use*, the authorized officer may require a reclamation bond which must be sufficient to cover the cost of reclamation of the anticipated annual work.

(b) *Types of bonding*. A bond must be one of the following:

(1) A bond of a corporate surety shown on the latest approved list issued by the U.S. Treasury Department and executed on an approved standard form;

(2) A cash bond;

(3) Negotiable securities of the United States;

(4) An irrevocable letter of credit acceptable to the Forest Service;

(5) A performance bond required by other Forest Service contracts or permits, provided the bond covers the performance and reclamation requirements related to the removal of mineral material from a designated pit or area for use in the performance of the contract or permit; or

(6) Any other types of bond specified in the Forest Service Manual.

§ 228.52 Assignments.

(a) *Limitations*. A purchaser or permittee may not assign the contract or permit, or any interest therein, without the written approval of the authorized officer.

(b) *Requirements of assignee*. The authorized officer will not approve any proposed assignment involving con-

tract or permit performance unless the assignee:

(1) Submits information necessary to assure the authorized officer of the assignee's ability to meet the same requirements as the original purchaser or permittee (assignor); and

(2) Furnishes a bond or obtains a commitment from the previous surety to be bound by the assignment when approved.

(c) *Rights and obligations*. Once the authorized officer approves an assignment, the assignee is entitled to all the rights and is subject to all of the obligations under the contract or permit, and the original purchaser or permittee may be released from any further responsibility under the contract or permit.

§ 228.53 Term.

(a) *Time allowed*. Except as provided in § 228.61(f), § 228.62(b), and elsewhere in this paragraph, a contract or permit may not exceed 1 year from the effective date of the contract or permit unless a written extension is obtained. For those mineral materials sold under a duration of production contract or under a contract for the sale of all mineral material within a specified area, or under a construction contract where removal cannot reasonably take place before completion of other work under the same contract, the authorized officer will establish a reasonable time period for removal.

(b) *Extension of time*. If it is shown that a delay in removal was due to causes beyond the control of the purchaser or permittee, the authorized officer may grant an extension, not to exceed 1 year, upon written request. Written requests for extensions of contracts must be received between 30 and 90 days before the expiration date of the contract. Written requests for extensions of permits must be received between 15 and 90 days before the permit expiration date. The authorized officer may grant a total of two extensions for contracts and permits.

§ 228.54 Single entry sales or permits.

The purchaser or permittee is required to reclaim a single entry source in accordance with an approved operating plan which describes operating

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procedures and reclamation measures, unless the requirement is waived by the authorized officer.

§ 228.55 Cancellation or suspension.

The authorized officer may cancel or suspend a contract, permit, or prospecting permit if the purchaser or permittee fails to comply with its terms and conditions. If the noncompliance is unnecessarily or unreasonably causing injury, loss, or damage to surface resources, the authorized officer may cancel or suspend the contract, permit, or prospecting permit immediately. In cases where noncompliance is of a less serious nature, the authorized officer may cancel or suspend a contract, permit, or prospecting permit if such noncompliance continues for 30 days after service of written notice by the authorized officer. If the noncompliance is not corrected, the authorized officer may attach the bond to ensure compliance with the provisions of the contract, permit, or prospecting permit.

§ 228.56 Operating plans.

Any surface-disturbing operation under a contract, permit, or prospecting permit is subject to prior approval by the authorized officer of an operating plan and to reasonable conditions as may be required to ensure proper protection of the environment and improvements, including timely reclamation of disturbed lands. Significant changes to operations require prior approval of an amended operating plan. The operating plan must include, as a minimum, a map and explanation of the nature of the access, anticipated activity, surface disturbance, and intended reclamation including removal or retention of structures and facilities. Operating plans must be submitted by the purchaser, permittee, or prospecting permittee, except as noted in § 228.64(b).

TYPES AND METHODS OF DISPOSAL

§ 228.57 Types of disposal.

Except as provided in § 228.41(b), disposal of mineral materials may be made by:

(a) *Competitive sale* to the highest qualified bidder after formal adver-

tising and other appropriate public notice;

(b) *Sale by negotiated contract*. (1) For removal of materials to be used in connection with a public works improvement program on behalf of a Federal, State, or local government agency if the public exigency will not permit delays incident to advertising, or

(2) For the removal of mineral materials for which it is impracticable to obtain competition;

(c) *Preference right negotiated sale* to the holder of a Forest Service-issued prospecting permit under which a suitable mineral material deposit has been demonstrated on acquired National Forest lands;

(d) *Free use* when a permit is issued to any nonprofit association, corporation, individual, or others listed in § 228.62(d), for other than commercial purposes, resale, or barter, or to any Federal, State, county, local unit, subdivision, municipality, or county road district for use in public projects; or

(e) *Forest Service force account or by contract* where the material is to be used to carry out various Forest Service programs involving construction and maintenance of physical improvements.

§ 228.58 Competitive sales.

(a) *Invitation for bid*. Sales must be conducted as described below after inviting competitive bids through publication and posting. The authorized officer may not offer a competitive sale unless there is a right-of-way or other access to the sale area which is available to anyone qualified to bid.

(b) *Advertising*—(1) *Sales over 25,000 cubic yards*. Mineral material sales offered by competitive bidding and which exceed 25,000 cubic yards must be advertised on the same day once a week for two consecutive weeks in a newspaper of general circulation in the area where the material is located, and in a trade or industrial newspaper when considered appropriate. Notice of the sale must be posted in a conspicuous place in the office where bids are to be submitted. In addition, the authorized officer may send the advertisement directly to known interested persons. Bids may be received but not evaluated