identified in table 1 to § 100.701, paragraph (a), item 2, from 8 a.m. until 4 p.m., each day from April 2, 2026, through April 5, 2026.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander Rachel E. Thomas, Sector San Juan, Waterways Management Division Chief, Coast Guard; telephone (571) 613–1417, email *Rachel.E.Thomas@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.701 for the St. Thomas International Regatta regulated area daily from 8 a.m. to 4 p.m. on April 2 through April 5, 2026. This action is being taken to provide for the safety of life on navigable waterways during this 4-day event. Our regulation for marine events within the Southeast Coast Guard District, § 100.701, in table 1 to § 100.701, paragraph (a), item 2, specifies the location of the regulated area for the St, Thomas International Regatta which encompasses portions of Jersey Bay, St. James Bay, Great Bay, and Little St. James in St. Thomas, USVI. During the enforcement periods, as reflected in § 100.100(c), entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port San Juan.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and Broadcast Notice to Mariners.

Luis J. Rodríguez,

Captain, U.S. Coast Guard, Captain of the Port Sector San Juan.

[FR Doc. 2026–01686 Filed 1–27–26; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 214, 228, and 261

RIN 0596–AD33

Oil and Gas Resources

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA or Department) is finalizing revisions to its regulations governing Federal oil and gas resources within the National Forest System (NFS). The Department is making these revisions to update and modernize its existing regulations. In addition, conforming technical amendments to other parts of the Code of Federal Regulations (CFR) affected by this rule are also being updated. The regulations revise the process for analyzing whether the USDA, Forest Service will consent to making certain lands available for oil and gas leasing by the Bureau of Land Management (BLM). The regulations also clarify requirements for conducting lease operations and revise procedures concerning monitoring operator compliance with all applicable terms and conditions of leasing. The revised regulations will apply to operations on both existing and future leases.

DATES: This rule is effective February 27, 2026.

ADDRESSES: Supplementary documents prepared in conjunction with the preparation of this rule, including a regulatory impact analysis and environmental assessment, and the public comments received on the rule are available at *www.regulations.gov* at Docket No. FS–2020–0007.

FOR FURTHER INFORMATION CONTACT: Jeffrey Salow, Solid Leasable Minerals and Geothermal Resource Specialist, Lands, Minerals and Geology at 435–636–3596 or by email at *jeffrey.salow@usda.gov.* Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service and then provide the phone number of the person named as a point of contact for further information.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service (Agency) is revising its Oil and Gas Resources (36 CFR part 228, subpart E) regulations. Acting under established legal authorities, the Forest Service regulates surface disturbing activities conducted pursuant to a Federal oil and gas lease on national forests and grasslands. The existing regulations were first promulgated in 1990, with only a minor modification in 2007. Updating the regulations affords an opportunity to modernize existing procedures to streamline processes and promote efficiency. The Forest Service anticipates that updated interpretive guidance for implementing the final regulations will be developed in 2025 and set out in the Agency's directive system in 2026.

On June 16, 2023, the BLM promulgated a final rule placing the current content of Onshore Order 1, which provided requirements for the approval of oil and gas operations, into its regulations at 43 CFR part 3170, subpart 3171—Approval of Operations. The Office of the Federal Register had informed the BLM that it could no longer revise the existing Onshore Orders unless the agency codified the Orders in the Code of Federal Regulations. While this action has no substantive effect on this final rule, they do necessitate citation changes where Onshore Order 1 was used in the proposed Forest Service oil and gas rule and removing section 228.102(a) (Issuance of Onshore Orders) as later described under the heading ''Section-by-Section Description of the Final Rule Changes from Existing and Proposed Rules.''

This rulemaking applies to only Federal oil and gas resources on lands managed by the National Forest System, and it does not affect nonfederal (such as reserved and outstanding private) oil and gas resources.

The rule will contribute to increasing efficiencies in evaluating and managing surface disturbing activities conducted pursuant to Federal oil and gas leases and will help the Forest Service achieve its strategic goal of delivering benefits to the public. The Agency is revising its existing regulations to clarify internal processes related to evaluating and approving oil and gas leasing operations, clarifying oil and gas operators' responsibility to protect natural resources and the environment, clarifying the Agency's procedures regarding inspections and compliance, and updating material noncompliance procedures to reflect existing Agency practices and better reflect requirements of law. The changes to 36 CFR part 228 require minor conforming changes to regulations at 36 CFR parts 214 (Post Decisional Administrative Review Process for Occupancy or Use of National Forest System Lands and Resources) and 261 (Prohibitions).

The changes finalized in this rule will not materially alter the basic responsibilities of either the Forest Service or oil and gas operators. The changes aim to clarify procedures, reduce redundancy, and promote harmonious interaction with other existing rules. For example, one notable change aims to simplify the administrative process the Agency follows to determine which lands are available for leasing, reduces the amount of time allotted for it to take the Agency to make these decisions while at the same time maintaining all environmental and human health and safety protections of the current rule.

The rule also clarifies the procedures that the Forest Service follows to require an operator to take corrective actions if operations are found to be out of

compliance with the approved surface use plan of operations, including establishing a formal option to refer instances of continued noncompliance to the BLM. The rule would retain operator requirements for emergency abatement when the Agency acts to remedy emergency situations such as fires or spills to which the operator cannot or will not respond. The rule would also revise the Agency's material noncompliance proceedings by streamlining the process and reflecting consequences defined in the Mineral Leasing Act (30 U.S.C. 226(g)). These changes would simplify the compliance process in Agency inspections, resulting in better management and protection of surface resources.

The rule will promote coordination and efficiency between the Forest Service and the BLM. The BLM is the Federal agency primarily responsible for managing federally owned minerals, including minerals underlying lands managed by the Forest Service. The Forest Service and the BLM jointly manage leasing and operations when oil and gas activities involve National Forest System lands, and oftentimes project proponents operate on lands managed by both agencies. Generally speaking, the Secretary of the Interior has the final decision whether to issue oil and gas leases on Federal lands, including National Forest System lands, subject to Forest Service consent.

Congress has long recognized the importance of mineral resources located on lands within the National Forest System and has repeatedly made special provisions for the administration and development of these minerals.

Congress enacted the Mineral Leasing Act of 1920 (30 U.S.C. 181, *et seq.*), directing that the development of Federal oil and gas resources would be subject to a leasing system under the direction of the Department of the Interior. Initially, the Department of Interior did not have to obtain the consent of the Forest Service to issue oil and gas leases on National Forest System lands, but that was changed with the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351 *et seq.*) and the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (Pub. L. 100–203, the Reform Act), which directed that the Department of the Interior may not issue any oil and gas lease on National Forest System lands without the ''consent of'' or ''over the objection of'' the USDA, respectively. The Mineral Leasing Act for Acquired Lands authorized the Secretary of the Interior to lease oil and gas deposits on acquired National Forest System lands ''under the same conditions as contained in the leasing provisions of the mineral leasing laws'' upon obtaining the consent of the Secretary of Agriculture (30 U.S.C. 352). The Act also required the Secretary of the Interior to include in such leases any conditions prescribed by the Secretary of Agriculture to ''ensure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered.'' The 1987 Reform Act also granted the USDA express authority to regulate all surface-disturbing activities conducted pursuant to any oil and gas lease on lands managed by the Forest Service. The Mineral Leasing Act, as amended, also specifies requirements for inspections and compliance, the consequences of noncompliance, and for approvals to operate on National Forest System lands.

In 2005, Congress directed Federal agencies to streamline and reduce timeframes for processing proposals to lease and conduct oil and gas operations on Federal lands. See Energy Policy Act of 2005 (Pub. L. 109–58), subtitle F, sections 361, 362, and 390. The BLM is principally responsible for tracking applications for operations on Federal oil and gas leases and does so through a database called the Automated Fluid Minerals Support System (AFMSS II). The Forest Service has access to AFMSS II to track surface use plans of operations and master surface use plans of operations.

In 2007, the Forest Service and the BLM jointly established coordination procedures for the review and analysis of permits to drill, including the surface use plan of operation portion in Onshore Order 1, now codified as 43 CFR part 3170, subpart 3171.

There are currently 5,154 Federal oil and gas leases covering about 3.8 million acres (about 2 percent) of National Forest System lands. Approximately 2,850 of these leases, covering 1.8 million acres across 39 national forests and grasslands, have producing Federal oil or gas wells; however, the footprint of actual operations comprises a small percentage (less than 10 percent) of that area. Operating on these leases are 2,901 wells, which in 2022 produced over 48 million barrels of oils (1.1 percent of the Nation's total) and over 167 billion cubic feet of natural gas (0.4 percent of the Nation's total). The production was valued at over $4.5 billion and returned approximately $565 million in royalties to the U.S. Treasury.

It is in the national interest to promote clean and safe development of our Nation's vast energy resources while preserving the surface resources of national forests and grasslands. To that end, the Forest Service seeks to facilitate the orderly development of Federal oil and gas resources in an environmentally sound manner. The final regulatory revisions are consistent with those goals.

Advance Notice of Proposed Rulemaking, Proposed Rule, and Public Comment Period

On September 13, 2018, the USDA issued an advance notice of proposed rulemaking (ANPR) in the **Federal Register** (83 FR 46458), inviting public input on key issues regarding the implementation of existing oil and gas regulations and other areas of concern. The public comment period occurred from September 13 to October 15, 2018, and served as the initial scoping period for the environmental analysis. The Forest Service received 91 responses, representing a mix of general opposition and general support for the proposed rulemaking.

Stated reasons for general opposition to the rule include the destruction of national forests and natural resources for financial or political interests; inadequate protection of human and environmental health; adverse impacts on recreation opportunities and tourism; and unsustainable reliance on fossil fuels.

Stated reasons for general support of the rule include the generation of revenue, large existing demands for oil and gas, decreases in regulatory burden on the oil and gas industry, promotion of domestic energy production, the creation of a simplified process leading to quicker leasing decisions, and the elimination of duplication with the BLM.

Public comments received in response to the ANPR can be found on the internet at *http://www.regulations.gov.* Search for Docket ID: FS–2018–0053. Responses to the ANPR were considered during preparation of the proposed rule, which was published on September 1, 2020 (FR Doc. 2020–18518) and opened a 60-day comment period. The public submitted nearly 80,000 comments during the 60-day comment period. Approximately 99.5 percent (79,180) of the comments received were form letters collected by conservation organizations. Only 439 unique, substantive comments or letters were submitted. These comments were from unaffiliated private citizens, State agencies, counties, Alaska Native Corporations, Tribal agencies, oil and gas owners and operators, environmental groups, and business associations.

All the form letters and most of the unique comments expressed opposition

at some level, whether to oil and gas development in general or to oil and gas development on National Forest System lands in particular, or to the proposed revisions to 36 CFR part 228 Subpart E or to the rulemaking process itself.

Supportive comments generally applauded the Forest Service's efforts to improve clarity and efficiency in the leasing analysis and consent decision procedures, reduce redundancies in permitting, improve coordination with the BLM, and update procedures addressing noncompliance situations. Some supportive comments suggested specific edits to regulation text to help improve the efficiency of the process or the clarity of regulatory intent.

A detailed discussion of comments and our responses is contained in the ''Summary of and Response to Public Comments'' section.

Summary of Final Rule

The final rule's revisions are based on Agency experience implementing existing regulations and are intended to better align these regulations with established joint Forest Service and the BLM Onshore Order 1 (now 43 CFR part 3170, subpart 3171) and improve Agency coordination for implementing the applicable components of the BLM's regulations (43 CFR part 3100).

The rule clarifies and streamlines the processes for identifying National Forest System lands that are available for leasing, while emphasizing an operator's responsibilities for compliance and clarifying management steps that the Forest Service will take when operators do not comply with Forest Service regulations. The rule also better aligns Forest Service regulations with those of the BLM regarding sundry notices and instances of bonding. The rule clarifies the applicability of the existing procedures in 43 CFR part 3170, subpart 3171, by which the BLM and the Forest Service jointly respond to operating proposals.

The rule relocates the contents of section 228.110, *Indemnification,* in the current regulations to section 228.105, *Responsibilities of Operators,* thereby reducing the number of sections by one. The rule also reorders, renumbers, and retitles various sections that would result in the following organization of the regulations:

Section 228.100 Scope and Applicability
Section 228.101 Definitions
Section 228.102 Issuance of Notices to Lessees and Operators
Section 228.103 Leasing Analysis and Consent Decision
Section 228.104 Consideration of Requests To Waive, Except, or Modify Lease Stipulations
Section 228.105 Responsibilities of Operators
Section 228.106 Operator's Submission of Surface Use Plan of Operations
Section 228.107 Review and Approval of Surface Use Plan of Operations
Section 228.108 Sundry Notices
Section 228.109 Bonds
Section 228.110 Temporary Cessation of Operations
Section 228.111 Compliance and Inspection
Section 228.112 Notice of Noncompliance
Section 228.113 Material Noncompliance
Section 228.114 Posting Requirements
Section 228.115 Information Collection Requirements

Section-by-Section Description of the Final Rule Changes From Existing and Proposed Rules

The paragraphs below provide a section-by-section description of the final rule, including a description of changes made from the proposed rule. The ''Summary of and Response to Public Comments'' section of this preamble provides further explanation for changes that are or are not included in the final rule.

Section 228.100 Scope and Applicability

The final rule does not change language from the proposed rule except for reference to 43 CFR part 3170, subpart 3171 instead of Onshore Order 1. Compared to the existing regulation, the changes or additions to the section serve to improve readability and clarity and provide specific reference to the applicability of the BLM regulations at 43 CFR parts 3160 and 3171.

Section 228.101 Definitions

One definition was revised for the final rule. For the definition of ''conditions of approval,'' the final rule modified language in the proposed definition from ''site-specific requirements that may be included with the approval of a surface use plan of operations that may limit or modify the specific activities covered in the plan'' to ''site-specific requirements shall be included with the approval of a surface use plan of operations where necessary to limit or modify the specific activities covered in the plan.'' The change is made in response to a public comment that stated the use of ''may'' implies arbitrary discretion in the application of conditions of approval.

Compared to the existing regulation, the final rule adds the following terms and their definitions to provide functionality to the regulation's text and improve consistency with the BLM terminology: acquired lands; agreement; conditions of approval; consent; infrastructure or facilities; final abandonment notice; lease; master development plan; master surface use plan of operations; material noncompliance; Reasonably Foreseeable Development Scenario; stipulation; sundry notice; and waiver, exception, or modification.

The final rule retains as is or with minor wording changes to improve clarity the following definitions: authorized Forest Service officer; compliance officer; lessee; National Forest System lands; Notices to Lessees and Operators; operations; operator; substantial modification (described in the definition for waiver, exception, or modification); and surface use plan of operations.

The final rule removes the definitions of the following terms because they are redundant, lack applicability to the rule, or do not merit a stand-alone definition due to limited use or no special meaning beyond the plain English usage within the regulation: leasehold; onshore oil and gas order; operating right; operating rights owner; person; transfer; and transferee.

These changes are expected to benefit the regulated community, the Forest Service, and the BLM with a more harmonious set of definitions between the agencies' regulations.

Section 228.102 Issuance of Onshore Orders and Notices to Lessees and Operators

The final rule removes section 228.102(a)—Onshore Oil and Gas Orders and renames the title to *Issuance of Notices to Lessees and Operators.* The use of Onshore Orders has been discontinued based on the advice and recommendations of the Office of the Federal Register to the Department of the Interior and USDA.

Compared to the existing regulation, the final rule moves the content of the existing section 228.102 regarding leasing analysis and decisions to section 228.103. The rule moves the requirements for Notices to Lessees and Operators from section 228.105 in the existing regulations to paragraph (b) of this section. The rule removes the procedure for the Chief of the Forest Service to issue onshore oil and gas orders for the same reasons described above regarding Onshore Orders. The final rule makes editorial changes to the

text for clarity and readability that were included in the proposed rule.

Section 228.103 Leasing Analysis and Consent Decision

The final rule carries forward the same language as the proposed rule for sections 228.103(a) through (d). The final rule removes section 228.103(e) titled *Withdrawing Leasing Consent* and adds a new section 228.103(e) titled *Review of Leasing Consent Decision for Specific Lands,* with the review leading to either a confirmation of the leasing consent decision or a withdrawal of consent (based on new information necessitating further analysis, for example). Additional language directs the Forest Service to provide notification to the BLM with the results of the review confirming the leasing consent decision for specific lands or withdrawing its leasing consent for specific parcels. If the consent is withdrawn, the notification will describe the reasons for the withdrawal and provide an anticipated course of action.

The rule removes reference to the former post-decisional appeal process governing plan and project decisions (36 CFR part 217) because it has been rendered obsolete by subsequent statutory enactments and regulations. The change remedies the outdated reference and provides direction that 36 CFR part 219, subpart B, will operate as the sole process by which the public may file objections concerning the leasing analysis and consent decision.

The final rule streamlines the approach that the Agency follows to identify lands open to leasing and stipulations to protect surface resources on lands open to leasing by establishing that the Forest Service has one decision point, that being consent to leasing made at the completion of the leasing analysis. This approach better aligns the Forest Service leasing availability analysis methods with those followed by the BLM. The rule also clearly states that the Forest Service may withdraw its consent to lease prior to the BLM conducting a lease sale.

The rule removes references to other laws and regulatory requirements, particularly with respect to complying with the National Environmental Policy Act and the Endangered Species Act and their implementing regulations, in favor of letting those laws and regulations speak for themselves and to reduce the likelihood that direction could be confused in the future if other regulations change. While several citations to specific laws and regulations have been removed, the Forest Service and lessees must still comply with all applicable laws and regulations.

Paragraph (a) of section 228.103 modernizes language regarding scheduling leasing analyses. The existing regulation references scheduling analyses within 6 months of April 20, 1990, and calls for an annual update of the schedule. The rule removes reference to a specific date, emphasizes coordination between national forests and grasslands and the BLM for scheduling, informs the public that the agencies would consider public interest in leasing, and requires an annual update to the schedule. The changes help align the efforts of Forest Service and the BLM with each other and interested parties in conducting leasing analyses.

Paragraph (b) of section 228.103 defines the required components of a leasing consent analysis. The rule maintains the same components of analysis but provides additional direction on cooperation with the BLM, the development of alternatives, and the use of stipulations. These requirements include clarifying how stipulations must be designed to carry out provisions of the Energy Policy Act of 2005 (42 U.S.C. 15922) to ensure that lease stipulations are applied consistently, coordinated between agencies, and are only as restrictive as necessary to protect the resource for which the stipulations are applied. This section incorporates parts of the existing section 228.102(b) and (c). The leasing consent analysis process directs the Forest Service to make a single decision identifying lands on which the Agency would consent to the BLM's offering oil and gas leases for the affected National Forest System lands. The existing regulation directs an administrative review by the Forest Service at the time that specific lands, which have already been subject to an area or forest-wide leasing analysis, are being scheduled for leasing by the BLM. Paragraph 228.103(f) replaces that language as described above.

Paragraph (c) of section 228.103 carries forward the components of a leasing consent decision from the existing regulations but is renamed *Leasing Consent Decision.* The paragraph clarifies that the Forest Service has one decision point in the process and clearly defines the required components of the Forest Service decision: which lands are open to leasing and under what conditions (standard lease terms or added stipulations); and which lands are closed through exercise of management direction, statute, regulation, or withdrawal EOI's on a regular and recurring basis.

Paragraph (d) clarifies the effect of a leasing consent decision.

Paragraph (e) of the rule codifies the existing practice that the Forest Service could withdraw its consent decision prior to a BLM lease sale.

Paragraph (e) emphasizes any additional environmental analysis to be conducted of the leasing consent analysis decision. Environmental analysis will be consistent with leasing analysis and consent decision and conducted in an expeditious manner.

The addition of paragraph (f) is described above.

Section 228.104 Consideration of Request To Waive, Except or Modify Lease Stipulations

After considering public comment, the language in the final rule is the same as in the proposed rule.

Compared to the existing regulation, the final rule adds direct reference regarding the applicability of procedures in 43 CFR part 3170, subpart 3171 for requesting waivers or exceptions from or modifications to a lease stipulation (see regulation text in section 228.104). The final rule directs the Forest Service to provide notice to the BLM on its determination as to whether to grant or deny a request for a waiver, exception, or modification. The existing regulation directs notification to both the BLM and operator. As the administrator of Federal leases, the appropriate notification to the operator is from the BLM. The final rule removes statements concerning administrative ''appeal'' regulations that are obsolete in light of subsequent statutory and regulatory changes, and rather than providing redundant regulatory instructions, the final rule will instead rely directly on the Agency's existing administrative review regulations at 36 CFR part 214 and part 218.

The existing regulation requires the Forest Service to consult with other agencies when considering a waiver, exception, or modification to a lease stipulation included at the other agency's request. Examples of instances when this might occur would be if the Forest Service included a stipulation that restricted occupancy in the vicinity of an electrical transmission line operated by a Federal power authority, or a stipulation to protect threatened or endangered wildlife species required by the U.S. Fish and Wildlife Service. The final rule maintains this requirement unchanged from the proposed rule.

Section 228.105 Responsibilities of Operators

After consideration of public comments, three minor changes were made from the proposed rule to the final rule.

First, in section 228.105(a), the phrase ''and avoids conflicts with other land uses'' was added to the general standard of resource protection. The clause in section 228.105(a)(1)(vii) ''. . . as required by the authorized Forest Service officer'' was removed as unnecessary in the final rule.

Finally, the text in section 228.105(c) was modified to specify that an operator must allow access to ''authorized'' Forest Service personnel and remove the restriction that access is only related to inspection purposes.

The final rule moves the content of the existing section 228.105 to section 228.102. The final rule moves the content of the existing section 228.108 to section 228.105 and retitles it as *Responsibilities of Operators.* To improve efficient implementation of the regulations, the final rule generally revises the content to not duplicate requirements in 43 CFR part 3170, subpart 3171; readers are referred to 43 CFR part 3170, subpart 3171, as applicable.

The final rule retains requirements from the existing regulations in paragraphs (g), (i), and (j)(2), places them in paragraph (a), and reorders them for readability. Paragraph (a) of the final rule reinforces existing practices for operators to maximize use of existing roads and utility corridors in planning and constructing new infrastructure and report to the Forest Service any spills, blowouts, fires, or personal injuries that are reported to the BLM under its requirements.

Paragraph (b) of the final rule requires the operator to comply with all other applicable State and Federal statutes and regulations. Paragraph (c) of the final rule requires the operator to allow the Forest Service access to its operations for compliance inspection and other authorized purposes. Paragraph (d) of the final rule informs the operator of existing requirements that it is responsible for obtaining Forest Service permits for uses of National Forest System lands and resources not otherwise included in a surface use plan of operation, most notably for uses outside an operator's lease area. Paragraph (e) of the final rule maintains the requirement that the operator shall conduct its activities in a manner that avoids the cause, or minimizes the spread, of fire.

The final rule moves section 228.110 in the existing regulation to paragraph (f) of this section and retitles it *Liability.* The final rule maintains the same conditions of liability to the United States for injury, loss, or damage, including fire suppression costs incurred by the government resulting from the operator and all lessees' activities.

Section 228.106 Operator's Submission of Surface Use Plan of Operations

No changes were made from the proposed rule to the final rule except for changing reference of Onshore Order 1 to 43 CFR part 3170, subpart 3171.Compared to the existing regulation, the final rule revises language clarifying the applicability of the requirements in 43 CFR part 3170, subpart 3171 when an operator submits a surface use plan of operation and addresses use of master development plans and master surface use plans of operations. The final rule revises paragraph (c) to emphasize the need for operators to include in their applications a description of infrastructure or facilities to the extent known that would be used to support their operations such as pipelines or roads, and whether it would be within the boundaries of a lease or agreement, or outside lease or agreement boundaries. The final rule removes paragraph (d) *Supplemental Plan,* which uses terminology that is inconsistent with the BLM regulations and instead addresses sundry notices in section 228.108.

Section 228.107 Review and Approval of Surface Use Plan of Operations

After consideration of public comments, a change was made from the proposed rule to the final rule. The proposed rule removed the language from 228.107(c) in the existing regulation, which states, ''The authorized Forest Service officer shall give public notice of the decision on a surface use plan of operations and include in the notice that the decision is subject to appeal under 36 CFR part 214 or 215.'' The final rule inserts language in 228.107(b) expressly addressing when objection and appeal regulations will be available for proposed and final decisions concerning surface use plans of operations. Language has been added in 228.107(b) identifying that the authorized Forest Service officer will provide public notice for the proposed decision on a surface use plan of operation expected to be documented in a decision notice or record of decision (*i.e.,* environmental assessments and environmental impact statements; not categorical exclusions) and identify that the proposed decision will be subject to the 36 CFR part 218 pre decisional objection process. Additionally, 228.107(e) *Notice of decision* now provides that ''The authorized Forest Service officer shall give public notice of the final decision on a surface use plan of operations and identify in the notice that the decision may only be appealed by the applicant under 36 CFR part 214.''

Compared to the existing regulation, the final rule improves references to 43 CFR part 3170, subpart 3171, including the timeframes established in the regulation for Agency response. The final rule removes existing section 228.107(e), which uses terminology that is inconsistent with the BLM's regulations and instead clarifies sundry notices in section 228.108.

Section 228.108 Sundry Notices

Public comments prompted us to look closely at the language in this section. The final rule makes some minor changes to place language in the correct paragraph and improve clarity.

Compared to the existing regulation, the final rule moves the content of the existing section 228.108 to section 228.105, *Responsibilities of Operators.* The final rule renames this section *Sundry Notices,* replacing references to supplemental plans in sections 228.106 and 228.107 of the existing regulations. This removes language inconsistent with the BLM regulations and aligns the final rule with the BLM's procedures. New content regarding sundry notices states that the operator must follow the BLM procedures for submitting a sundry notice and that Forest Service approval of a sundry notice is required if the notice proposes surface-disturbing activities. The final rule clarifies that surface-disturbing activities may or may not require additional environmental analysis and may be assessed using any of the mechanisms provided in the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Section 228.109 Bonds

The final rule language remains the same as the proposed rule after consideration of public comments. The final rule maintains the same bond requirement as the existing rule but provides additional instruction to Forest Service managers and operators regarding 43 CFR part 3170, subpart 3171. The final rule makes general clarifications and editorial corrections for readability. The final rule clarifies how the Forest Service will coordinate

with the BLM if an operator chooses to increase its BLM bond to cover additional bonding required by the Forest Service for surface reclamation purposes. The Forest Service's experience in managing Federal oil and gas resources since the existing regulations were promulgated in 1990 indicates that in many cases, the BLM lease bonds are insufficient to support surface reclamation needs if a lessee or operator defaults. Recently, the BLM has updated its regulations concerning bonding requirements for leasing, development, and production to address shortcomings identified in reports by the Government Accountability Office and the Department of the Interior's Office of Inspector General (see 89 FR 30916). The final rule retains language for the Forest Service to exercise its authority under the Mineral Leasing Act to ensure adequate financial assurance is in place to reclaim surface disturbance. The final rule adds language that describes what factors authorized Forest Service officers would consider when determining if BLM lease bonds are adequate. The final rule retains language to the effect that the operator may increase the BLM performance bond or post a separate surface reclamation bond with the Forest Service when the Forest Service determines additional bonding is necessary. The final rule adds paragraph (d) to clarify methods for posting bonds, and paragraph (e) to clarify methods for releasing a Forest Service-held surface reclamation bond.

Section 228.110 Temporary Cessation of Operations

Compared to the proposed rule, the final rule changes language in 228.110(b) *Interim measures* from ''The authorized Forest Service officer may require the operator to take reasonable interim reclamation or erosion control measures to protect . . .'' to ''The authorized Forest Service officer shall require, as necessary, the operator to take reasonable interim reclamation or erosion control measures to protect . . .''

Compared to the existing regulation, the final rule moves the content of the existing section 228.110 to paragraph (f) of section 228.105, *Responsibilities of Operators,* and renames it *Liability.* The final rule places the content from the existing section 228.111 into this section. The final rule also makes editorial clarifications.

Section 228.111 Compliance and Inspection

The final rule language remains the same as the proposed rule. Compared to the existing regulation, the final rule moves the content of the existing section 228.112, paragraph (c), to section 228.105(b) *Responsibilities of Operators* and simplifies it to reference *Compliance with Other Statutes.* The final rule places the remaining content of the existing section 228.112 into this section. The final rule also reorders and renames the paragraphs in this section and makes editorial corrections to clarify the Agency's responsibility to inspect operations for compliance with the terms of applicable approvals and the regulations in this subpart.

Section 228.112 Notice of Noncompliance

The final rule remains largely the same as the proposed rule for this section. In section (f) *Shut down of operations,* paragraphs (1) and (2) are changed in order. Also, the criteria for lifting a shutdown are simplified to a determination that operations are in compliance with the applicable requirements identified in the notice of noncompliance. The duplicative clause ''or that it is no longer likely that any remaining noncompliance is likely to result in danger to public health or safety or in irreparable resource damage'' was removed. This second clause is one of the criteria for issuing the shutdown in the first place.

The final rule moves the content of the existing section 228.112 to section 228.111. The final rule also moves the content of the existing section 228.113 to this section. The final rule then reorders, renames, and revises the paragraphs in this section. The final rule streamlines the procedures that the Agency would use to notify an operator of issues concerning noncompliance with the terms of approvals or the regulations in this subpart. The final rule accomplishes the improved efficiency by moving from a two-step process to a one-step process. The final rule clarifies when the Agency would either engage the BLM to act under 43 CFR part 3163, refer a noncompliance action to law enforcement, or refer a noncompliance issue to the Agency's material noncompliance proceedings. The final rule clarifies an operator's opportunity to correct issues of noncompliance and an operator's appeal opportunities. The final rule updates the methods for notifying operators of noncompliance issues by including electronic means of notification.

Section 228.113 Material Noncompliance

Except for paragraph (c) *Notifying the Bureau of Land Management,* the final rule language in this section remains the same as the proposed rule. In paragraph (c), the language ''advising the BLM not to issue a lease or approve the assignment of any lease to an entity the Forest Service has determined to be in material noncompliance'' was removed. The final rule simply requires notification to the BLM of our findings. By statute, the BLM administers all questions concerning the ineligibility of an entity to acquire a new lease.

The final rule moves the content of the existing section to section 228.112 and moves the content of section 228.114 to this section. The final rule revises, reorders, and renames the paragraphs in this section. The final rule streamlines the procedures that the Agency would follow when determining if an operator is in material noncompliance with reclamation or other requirements or standards and better reflects the requirements and consequences established in the Mineral Leasing Act. The 1990 procedures in the existing regulation for oil and gas material noncompliance proceedings were designed to be consistent with other debarment procedures that are now defunct, thus prompting the need to revise these procedures.

Section 228.114 Posting Requirements

The Posting Requirements text remains the same from the proposed to final rule. The final rule moves the content of the existing section 228.114 to section 228.113; moves the content of section 228.115 to section 228.114; retitles this section; and revises it to make the timeframes consistent with the timeframes in the BLM's 43 CFR subpart 3171. The final rule also removes internal direction regarding posting decisions, which is addressed in the Agency's regulations for implementing the National Environmental Policy Act.

Section 228.115 Information Collection Requirements

The final rule language is the same as the proposed rule for *Information Collection Requirements.* The final rule moves the content of the existing section 228.116 to section 228.115 and retitles it *Information Collection Requirements.* The final rule includes statements regarding Office of Management and Budget requirements from the existing section 228.116.

Summary of and Response to Public Comments

A summary of substantive comments and Forest Service responses is provided below including descriptions of changes made to the final rule based on the analysis of the comments and other administrative considerations.

Rulemaking Process

1. *Comment:* Commenters stated the rulemaking process should be paused (or the comment period extended) due to COVID–19 pandemic impeding the ability for public participation, and that all open public comment periods and associated leasing and permitting activities are paused during this crisis.

Agency Response: COVID–19 presented challenges to many normal processes. However, the Forest Service declined to extend the public comment period because the proposed revisions are not complex, and do not materially change the existing analyses and decisions related to land use or post-lease permitting. The Forest Service did extend the Tribal consultation period from 120 days to 150 days. Any ongoing leasing and permitting actions are separate and apart from this rulemaking process.

2. *Comment:* Several commenters indicate that the programmatic environmental assessment (EA) associated with the proposed rule does not consider a sufficient range of alternatives, and that additional alternatives capable of meeting the purpose and need should be carried forward for analysis. Likewise, concern is expressed that the purpose and need is defined too narrowly to permit consideration of a reasonable range of alternatives. Comments also express concern that the programmatic environmental assessment does not take a hard look at the environmental and social costs associated with the proposed rule, and that additional evidence is needed to support the assessment's findings, as well as the stated purpose and need. It is stated that the Forest Service should prepare an environmental impact statement for the proposed rule to address these concerns.

Agency Response: A programmatic environmental assessment was prepared to determine whether this rule would have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). The programmatic environmental assessment describes and analyzes two alternatives: the rule (proposed action) and continuing with the existing regulations (no action). The programmatic environmental assessment found no impacts on any natural or cultural resources and low, but beneficial socioeconomic benefits. The programmatic environmental assessment supports a finding of no significant impact for the rule, and preparation of an environmental impact statement pursuant to the National Environmental Policy Act is not required.

3. *Comment:* With regard to public involvement, some comments stated that the overall structure and style of the proposed rule reduces the public's ability to meaningfully engage in the rulemaking process. Concern is specifically expressed that this will curtail involvement by affected communities and indigenous people or affect decisions for specific public resources.

Agency Response: The process provided adequate opportunity for meaningful public and Tribal engagement as described in the preceding section titled ''Advance Notice of Proposed Rulemaking, Proposed Rule, and Public Comment Period.'' The proposed revisions are not overly complex, and do not materially change the existing analyses and decisions related to land use or post-lease permitting. Formal consultation and coordination with Indian Tribal governments was conducted as described in the ''Regulatory Certifications'' section of this preamble.

Agency Organization

4. *Comment:* Concern is expressed that the proposed rule does not address training and funding for Agency staff and programs. As one commenter states, ''Creating efficient processes is about more than revising regulations. Without sufficient funding and qualified resource professionals, streamlining regulations is a reaction to symptoms instead of addressing the root causes. Congress and the Administration must address proper funding, to not only ensure healthier forests, but a healthier Forest Service.''

Agency Response: The rule does not address training and funding for Agency staff and programs, and any shortcomings in this area are best addressed outside the context of this rulemaking process. Management of Federal oil and gas resources on National Forest System lands does require an adequate number of qualified resource professionals, and the Service does strive to maintain the required staff.

Public Involvement

5. *Comment:* Many commenters viewed the proposed rule's removal of existing references and citations of required laws, such as the National Environmental Policy Act or the Endangered Species Act, in several places as reducing transparency and the ability for public participation in Forest Service decisions on lands available for leasing and approvals of post-leasing activities. For example, one commenter stated, ''I am protesting the new rule that allows speedier approval of oil and gas drilling in national forests. I believe that the new rule unfairly reduces the chance for the public to comment by eliminating much of the existing NEPA process.''

Agency Response: The proposed revisions do not affect the level of notifications or public involvement in leasing or post leasing activities. In several places, references or citations to mandatory laws or regulations were removed in favor of letting them speak for themselves and to reduce likelihood that direction could be confused in the future if those laws or regulations change. While several citations to specific laws and regulations have been removed, the Forest Service and lessees must still comply with all applicable laws and regulations.

Protection of Natural and Cultural Resources and Other Land Uses

6. *Comment:* Many comments include statements of general opposition for the proposed rule, as well as for oil and gas activities on National Forest System lands or in general. Stated reasons for resource-specific opposition include adverse consequences to varied biological resources such as ecosystem health or wildlife, inadequate economic benefits and protection of human and environmental health, inappropriate use of public lands, adverse impacts on recreation opportunities and tourism, air and water pollution, decreased carbon sequestration and increased global warming/climate change impacts (including wildfires/fire risk, storms, and sea level rise), traffic, increased noise, and viewshed changes (such as views of natural gas flaring), damage to cultural and Tribal resources, and loss of medicinal plants.

Agency Response: The changes from the existing regulation do not alter the high level of protection of natural and cultural resources and other land uses affected by impacts of oil and gas development. The existing regulation is administrative in nature. It does not make any land use decisions or authorize any on-the-ground activity. The same holds true for the final rule. The rule does not change any processes by which the Forest Service complies with the National Environmental Policy Act, Endangered Species Act, cultural laws, or interagency and Tribal consultations in making decisions on land uses, leasing conditions, or post-leasing surface use decisions. The programmatic environmental assessment and regulatory impact analysis along with the preamble to the

draft rule, are essential components of our open and transparent public review process. A review of the documents demonstrates that the proposed revisions are not highly complex, do not materially change the existing analyses and decisions related to land use or post-lease permitting, have no adverse impacts on any members of the public, and do not alter public ability to participate in these decision-making processes.

Support for the Proposed Revisions

7. *Comment:* Many commenters stated reasons for general support of the proposed rule revisions, including efforts to ''reduce the burden of Federal regulations on individuals and businesses, increase efficiency, streamline processes, clarify the rule to reduce confusion and the potential for litigation and promote consistency between agencies all while maintaining health, safety and environmental protections.''

Agency Response: These are the stated reasons why the Forest Service decided to undertake the rulemaking effort. In general, the existing rule does not impose undue burdens on the industry but the Forest Service recognizes the value of providing clarity and improving processes and consistency between agencies.

Proposed Rule Section-by-Section Comments

Section 228.100 Scope and Applicability

8. *Comment:* Support is expressed for language that clarifies the roles of the Forest Service and the BLM in administering mineral leasing on National Forest System lands. Comments also state that the proposed rule should (1) regulate development of split-estate lands (such as nonfederal (reserved and outstanding private)) oil and gas resources, and the opposite (2) ensure that this rulemaking only affects Federal oil and gas resources on land managed by the Forest Service and does not affect nonfederal oil and gas resources.

Agency Response: The existing regulation and final regulation apply only to management of Federal oil and gas resources. The exercise of private oil and gas rights beneath lands managed by the Forest Service occurs under a different umbrella of laws and policy. Attempting to combine the different regimes under one regulation would likely promote inefficiencies and less clarity.

9. *Comment:* For section 228.100(b), one commenter stated, ''The Reform act gives the Secretary of Agriculture authority to regulate all surface-disturbing activities conducted pursuant to a lease and does not specify those activities must be ''on the lease'' and suggested changing ''within such leases'' to ''pursuant to such leases.'' The commenter suggested that surface uses associated with oil and gas activities that are conducted on lands managed by the Forest Service outside a lease or agreement should be covered under one authorization, namely the surface use plan of operations.

Agency Response: As described in section 228.100(c)(3), surface uses outside a Federal lease or agreement are subject to Forest Service special uses authorizations under regulations set forth elsewhere in 36 CFR chapter II, including but not limited to the regulations set forth in 36 CFR part 251, subpart B, and 36 CFR part 261. The Forest Service could not identify any meaningful efficiencies for the Forest Service or industry that would be gained by trying to combine authorizations permitted under different authorities, different Forest Service personnel or offices, or varying from long-standing processes.

Section 228.101 Definitions

10. *Comment:* Comments request that for ''conditions of approval,'' remove the ''may be'' or ''may'' language and instead provide specific, required conditions.

Agency Response: The definition has been adjusted to remove language that may imply arbitrary discretion in application of conditions of approval.

11. *Comment:* One commenter viewed the definition of ''consent'' as reversing the existing requirement that forest staff make an affirmative decision following any leasing analysis. The commenter interprets the final rule's definition of ''consent'' under both the Mineral Leasing Act of 1920 (may not issue a lease ''over the objection'' of USDA) and the Mineral Leasing Act for Acquired Lands of 1947 (no covered mineral deposit ''shall be leased except with the consent'' of the agency) as demoting the Forest Service to a weak, secondary role relative to oil and gas leasing on public domain lands. Other commenters stated the definition would eliminate or reduce confusion by the public relative to use of the different terminology. Combining implementation of two separate authorities under one common terminology improves efficiency and reduces complexity.

Agency Response: Regardless of whether a leasing analysis is conducted for reserved public domain or acquired lands, the Forest Service conducts the same analysis and effectively makes the same decisions: what lands are unavailable for lease, what lands are available, and under what conditions (such as lease stipulations). The ''consent'' and ''does not object'' language conveying the Forest Service's decision to the BLM has the exact same effect. That is made clearer with the ''consent'' definition in the proposed rule.

12. *Comment:* One commenter recommended the rule include a definition of ''reclamation'' as the term is used frequently in the proposed rule, but never explicitly defined.

Agency Response: No specific definition has been added for ''reclamation.'' The agencies, industry and public have a sufficient understanding of its general meaning without providing a more precise definition that could inadvertently overlook or exclude needed flexibility for specific reclamation actions. What constitutes reclamation is determined on a site-by-site case in the ''reclamation plan'' of a surface use plan of operations, which is also used to evaluate the amount of a reclamation bond.

Section 228.102 Issuance of Onshore Orders and Notices to Lessees and Operators

13. *Comment:* It would seem advisable that if the authorized Forest Service officer issues a specific Notice to Lessees and Operators that that information should also be forwarded to the appropriate BLM office also, usually the jurisdictional State office.

Agency Response: The agency agrees and has adjusted the final rule to ensure proper notifications occur.

Section 228.103 Leasing Analysis and Consent Decision

14. *Comment:* The proposed rule would remove references to other laws and regulatory requirements, particularly with respect to complying with the National Environmental Policy Act and the Endangered Species Act and their implementing regulations, in favor of letting those laws and regulations speak for themselves. By removing information such as this, it weakens the public's confidence in knowing what the oil and gas industry is doing and to what regulatory measures they are being held.

Agency Response: Reference and citation of mandatory laws were removed in favor of letting those laws and regulations speak for themselves and to reduce likelihood that direction could be confused in the future if other regulations change. While several

citations to specific laws and regulations have been removed, the Forest Service and lessees must still comply with all applicable laws and regulations.

15. *Comment:* In addition to the BLM, one commenter requested that State wildlife agencies also be identified and invited to participate as a cooperating agency in the leasing consent analysis due to special expertise or statutory authorities.

Agency Response: Although State wildlife agencies and other agencies with resource responsibilities are often identified and invited to participate, mandating invitations would not be an appropriate regulatory requirement. The BLM's role as the final authority over oil and gas leasing matters on Federal lands distinguishes their participation and warrants a regulatory requirement to receive an invitation to be a cooperator in the environmental review process. The Forest Service will continue to coordinate and cooperate with other Federal and State agencies as appropriate.

16. *Comment:* One commenter observed that the justification for the change to clarify ''how stipulations must be designed to carry out provisions of the Energy Policy Act of 2005'' is questionable. Notably, the requirement of the Energy Policy Act of 2005 was for the BLM and Forest Service to enter into memorandums of understanding concerning oil and gas leasing and operations—nothing more. The commenter believes that this requirement has been met and in no way does the Energy Policy Act of 2005 require the Forest Service regulations to incorporate this direction.

Agency Response: Though the commenter is technically correct that the Energy Policy Act does not ''require'' the Forest Service to include specific language in regulation, the concept that lease stipulations are consistently applied and coordinated between agencies and only as restrictive as necessary to protect the resource or resources for which the stipulations are applied is entirely reasonable and fully protective of resources. USDA has elected to maintain the provision in regulation because it informs Forest Service managers of the need to cooperate and develop stipulations that fully provide necessary protections but avoid restrictions that only serve to make leases less economically attractive.

17. *Comment:* Relating to the ''Effect of leasing consent decision,'' commenters challenged the Forest Service proposed rule that states, ''An authorized Forest Service officer's identification of lands as open to leasing . . . does [not] constitute an irretrievable or irreversible commitment of resources.''

Agency Response: The Forest Service consent decision does not necessarily lead to leasing as that decision and action belongs to the BLM. Further, the Forest Service may withdraw its consent at any time prior to a lease sale.

18. *Comments:* On the topic of the proposed rule's removal of language from the existing regulation for ''Leasing Decisions for Specific Lands,'' this proposed change generated the highest number of topic-specific comments—mostly unfavorable. Commenters asserted the Forest Service was eliminating a step requiring environmental review under the NEPA and additional public participation, ceding Forest Service authority to the BLM and placing oil and gas leasing above any environmental considerations. A few commenters stated removing the language would help avoid confusion by the public as to exactly what the current provision was calling for and thus avoid unnecessary legal challenges.

Agency Response: Based on public comment, our attempt to refine and clarify a single Forest Service decision point and avoid confusion was not successful. The draft rule attempted to clarify that the Forest Service would make a single decision identifying available lands for which the Agency would provide consent to the BLM to offering oil and gas leases for sale. The decision was to occur following a forest or area-wide leasing analysis. It is notable that the existing regulation actually uses the word ''decision'' in the paragraph titled ''Leasing decisions for specific lands'' (36 CFR 228.102(e)). However, when considering what the existing regulation requires, it is readily apparent that this is not a second, independent decision or Federal action requiring a more detailed analysis, but rather has been regarded as an administrative review verifying that leasing of the specific lands being reviewed has been adequately addressed in a NEPA document and is consistent with the applicable land management plan. The draft rule removed this regulatory text because it duplicates other procedures and regulatory requirements. That is, the Forest Service inevitably sought to assure that NEPA and other Forest Service regulations and policy remained valid at the time specific tracts were included in a lease sale. Removal of the text seemed to create more confusion. As a result, the final rule includes new text titled ''Review of Leasing Consent Decision for Specific Lands'' with the review leading to either a confirmation of the leasing consent decision or a withdrawal of consent (based on new information necessitating further analysis, for example). Additional direction was added for the Forest Service to provide notification to the BLM of results of the review confirming the leasing consent decision for specific lands or withdrawing its leasing consent for specific parcels. If the consent is withdrawn, the notification will describe the reasons for the withdrawal and provide an anticipated course of action.

19. *Comments:* Several commenters expressed concern that the Forest Service might withdraw its consent any time prior to a BLM lease sale, with some suggesting there should be a specified timeframe prior to a lease sale citing prospective bidders expending time and money evaluating parcels.

Agency Response: After consideration, the final rule removes section 228.103(e)—*Withdrawing lease consent.* The provision was added to the draft rule with the removal of existing 228.102(e)—*Leasing decision for specific lands* from the draft rule. The time between Forest Service leasing consent and an actual lease sale could be a number of years and conditions could change. A provision of the Forest Service's ability to withdraw its consent for specific parcels was informative to Forest Service and BLM, industry, and the public. The time between a notice from the BLM to the Forest Service that Forest Service parcels are scheduled for a lease sale is typically a month to several months. The Forest Service retains the discretion to withdraw its consent prior to a lease sale.

Section 228.104 Consideration of Requests To Waive, Except, or Modify Lease Stipulations

20. *Comment:* Commenters expressed support allowing the Forest Service discretion to provide waivers, exceptions, or modifications to lease stipulations identified in section 228.104. Governments on Colorado's Western Slope argued in other rulemaking processes, that one size does not fit all, and this will allow the Forest Service to adjust accordingly.

Agency Response: The Department agrees that this longstanding procedure is a valuable tool in oil and gas leasing administration. To ensure adequate protection is maintained, if the activity would cause effects on surface resources not authorized by the currently approved surface use plan of operations, the sundry notice is subject to the same

requirements of sections 228.106 and 228.107.

21. *Comment:* Comments suggested that section 228.103 *Leasing Consent Analysis* should identify the conditions that could lead to a waiver, exception, or modification for each stipulation.

Agency Response: After consideration, it was determined that this section as proposed provides the appropriate criteria for the Forest Service to consider waivers, exceptions, or modifications to lease stipulations, and that speculating on specific conditions for each stipulation during the leasing analysis is not always practical. This section provides a reasonable adaptive management tool.

22. *Comment:* Some commenters expressed concern that waivers, exceptions, or modifications could be approved without analysis and believed the section should explicitly define a public comment period requirement.

Agency Response: Any stipulation contained in a Forest Service lease has undergone full analysis including public participation. The rule defines strict criteria for approval that cannot lower the level of resource protection, including a review of the environmental consequences. Specifically, a Forest Service officer must find the management objectives which led the Forest Service to require the inclusion of the stipulation in the lease can be met if the waiver, exception, or modification is granted. Also, if a lease stipulation was included in a Forest Service lease at the request of another agency, or if another agency has specific jurisdiction over the specific resource, the authorized Forest Service officer must coordinate with that agency prior to approving a waiver, exception, or modification. These provisions provide the necessary protections and a universal requirement for public participation is not included in the final rule.

23. *Comment:* In section 228.104 (d) *Coordination with other agencies,* the Rule specifies that if non-Forest Service agency-proposed stipulations were incorporated into a lease, the Forest Service shall coordinate with the agency prior to approving a waiver, exception, or modification of those stipulations. However, this provision does not require the consent of the agency to modify stipulations. This provision could negate lease stipulations requested by the agency such as seasonal timing restrictions of drilling within big game critical winter range, fawning or calving habitat and the agency would have little recourse to challenge such decisions.

Agency Response: The final regulation does require the consent of such an agency to the waiver, exception, or modification when such consent is independently required by statute or regulation. But even given that, for the stipulation to have been included in the lease at an agency's request suggests a genuine and effective level of cooperation, and the rule requires (for example, Forest Service officer shall coordinate . . .) further coordination as the Forest Service considers the request. However, when an agency does not have statutory or regulatory authority, the regulation recognizes the final decision as being with the Forest Service. Agencies do not have the ability to pursue predecisional objections concerning proposed Forest Service decisions under 36 CFR part 218.

24. *Comment:* A commenter requested that the proposed amendments to section 228.104 be expanded to provide for waivers, exceptions, or modifications of lease stipulations to recognize North Dakota section line rights of way (NDCC 24–07–03) on lands acquired by the United States obtained by deed through purchase or gift, or through condemnation proceedings after North Dakota statehood in 1889.

Agency Response: Development of stipulations during the leasing analysis will conform with the legal obligations of the United States, but state specific matters such as the one raised by the comment are best addressed on a case-by-case basis rather than through these nationwide regulations.

25. *Comment:* A commenter stated the change to only notify the BLM of the Forest Service decision, and not the operator, would limit Forest Service decision making.

Agency Response: Section 228.104(a)(2) clarifies that where the request involves stipulations included in the lease as prescribed by the Forest Service, the BLM must obtain approval from the Forest Service before granting a request for a waiver, exception, or modification. An operator is directed to submit its request to the BLM under 43 CFR part 3170, subpart 3171.24, and the BLM is the final decision maker on the request. The notification to the operator by only the BLM promotes efficiency and does not change Forest Service evaluation of the request or limit its decision-making authority.

Section 228.105 Responsibilities of Operators

26. *Comment:* Consider changing ''required'' to ''approved'' so that it reads ''. . . as approved by the authorized Forest Service officer.'' Based on ''Superfund'' litigation relative to phosphate mining in Idaho where the Forest Service required specific reclamation . . . which resulted in a Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) action . . . it was argued that the Forest Service was liable since they ''required'' the specific reclamation causing the problem. The operator should propose reclamation which would be approved by the Forest Service and thereby limiting potential taxpayer liability.

Agency Response: The clause in section 228.105(a)(1)(vii) ''. . . as required by the authorized Forest Service officer'' appears to be unnecessary and it has been removed from the final rule.

27. *Comment:* A commenter takes exception to section 228.104(c) which states that the operator must allow Forest Service employees access, for inspection purposes stating that if the Forest Service employee is not certified (Forest Service Manual 2893) and/or does not have proper equipment, the operator may deny access to meet their ''safety obligation'' as referenced in 228.105(e). The commenter references Occupational Safety and Health Administration requiring personnel on location to wear flame-resistant clothing at specified times and references National Forest System Deputy Chief's letter dated November 15, 2010.

Agency Response: The Department partially agrees. After consideration, the text has been modified to specify that an operator must allow access to ''authorized'' Forest Service personnel and has removed the restriction that access is only related to inspection purposes. Forest Service personnel may need to be on location for other purposes such as planning new operations. While operators cannot ultimately deny access to authorized Forest Service personnel, conditions that provide for human health and safety should be in place.

28. *Comment:* Another commenter noted that there is no mention of or reference to potential investigations by other enforcement entities including State law enforcement officers or staff being permitted access. This limitation could impede the State's ability to investigate reports or clarify questions concerning wildlife or habitat related issues.

Agency Response: If access by State agencies is required under their own or other authorities, then it is not necessary to include language to that effect in this regulation. The Forest Service is committed to cooperating with State agencies to ensure that operations are conducted in compliance

with all Federal, State, and local laws and regulations.

29. *Comment:* One comment noted language indicating that the operator will ''reshape and revegetate areas disturbed by their operations'' is not clear what area that constitutes. It appears that the paragraph leaves that decision up to the operator. If the intent is that this refers to the surface use plan of operation, the regulations should so state; if not, then the area(s) should be defined.

Agency Response: After considering the comment, that language in the final rule remains the same as the proposed rule. This accounts for both approved and unapproved disturbance (such as spills that move off a surface use plan of operation's approved area of disturbance).

30. *Comment:* A commenter recommends this section be further clarified by adding language that directs the operator to conduct activities (or develop best management practices) in a manner that avoids and minimizes effects to all wildlife, regardless of designation. Actions such as identifying opportunities to minimize potential wildlife/vehicle collisions, presence of wildlife on sites due to water or lighting are examples which would also improve site safety for operators and their employees. Further, since Forest Service lands are designated for multiple use, the commenter further recommends language or practices that avoid and/or minimize impacts on public recreation (or access to), namely wildlife related recreation (such as hunting, angling and wildlife watching) as a result of the activities.

Agency Response: The Forest Service prefers language that is inclusive of all natural and cultural resources rather than calling out specific ones, such as wildlife. The words ''conflicts with other land uses'' has been added to clarify that the Forest Service considers these effects on land management as well as environmental impacts.

Section 228.106 Operator's Submission of Surface Use Plan of Operations

31. *Comment:* Comments express support for the requirement for operators to include planned infrastructure or facilities in their surface use plan of operations, including those located outside of lease or agreement boundaries.

Agency Response: The Department agrees. Though the permitting authorities are different and remain separate, the requirement serves to facilitate compliance with environmental laws such as the National Environmental Policy Act.

32. *Comment:* A commenter expressed concern that the proposed rule removes existing subsection (d), which requires a supplemental use plan if an operator wants to do something that is not covered by the currently approved plan. The operator instead is directed to comply with sundry notice requirements in section 228.108 which are simpler. However, the proposed rule specifically states these changes are to prevent inconsistency with the BLM regulations. As addressed above, the mission and statutory mandate of the Forest Service is inconsistent with the BLM's mission and statutory mandate. Changes should not be made to Forest Service regulations to more align with an agency whose interests and aims are different than its own.

Agency Response: The term ''supplemental use plan'' in the existing regulations has the same meaning and function as the term ''sundry notice'' used in 43 CFR part 3170, subpart 3171 and other relevant the BLM regulations and has not been changed.

33. *Comment:* A commenter recommends that language in paragraph (b) be modified to also encourage the operator to coordinate with the State wildlife agency concerning local wildlife activities and wildlife recreation resources and uses. The commenter contends that the State wildlife agencies have the best data and information regarding wildlife and wildlife related recreational activities. Other comments state this section implies that there is no requirement to, nor expectation that, the lessee or operator will base a surface use plan on the best available information from the Forest Service nor any other appropriate Federal or State natural resource management agencies. These comments suggest that ''encourage'' should be ''require'' instead.

Agency Response: The Department agrees with the premise that an operator's coordination with State agencies responsible for wildlife resources, or any resources, is advisable to ensure the best information available is used to develop its surface use plan of operation. The ''encourage'' language is consistent with 43 CFR part 3170, subpart 3171 and serves as guidance to the operator for their benefit in avoiding unnecessary delays. A Forest Service regulation directing one agency to cooperate with another is not appropriate and the language has not been changed in the final rule. The Forest Service will continue its current practice of coordinating and consulting with agencies including the sharing of information.

34. *Comment:* A commenter suggested deleting this section since its primary purpose is for implementing Onshore Order 1 and the section should not duplicate or confuse the regulatory requirements of the Order.

Agency Response: The final rule retains this section as it provides direction that is supplemental to 43 CFR part 3170, subpart 3171.

Section 228.107 Review and Approval of Surface Use Plan of Operations

35. *Comment:* Comments express opposition to proposed revisions in section 228.107 that would eliminate requirements that the authorized Forest Service officer give public notice of the Forest Service's decision on a surface use plan of operations and include in the notice that the decision is subject to appeal. Other commenters viewed the removal of the Forest Service's notification of decision on the surface use plan of operation as ceding authority to the BLM.

Agency Response. In consideration of the first comment, new language has been added in paragraphs (b) and (e) to the final rule directing the Forest Service officer to give public notice of proposed and final decisions on a surface use plan of operation including the availability of an objection or appeal. The proposed rule in no way diminishes Forest Service's decision-making role. The regulation at 43 CFR part 3170, subpart 3171specifically requires Forest Service approval of the surface use plan of operation before the BLM can approve an application for permit to drill. Additionally, the BLM cannot approve an application for permit to drill until any objection or appeal to the Forest Service of its decision on a surface use plan of operation is resolved.

36. *Comment:* A commenter stated that the Forest Service must be able to add additional [lease] stipulations or other environmentally protective measures or requirements at the time of review and approval of surface use plan of operations and master surface use plans of operations. This allows the Forest Service to require up-to-date technology or best management practices that will protect public lands and to incorporate into the plans of operations protection for new sensitive species, locations of species, or sensitive ecosystems that have been found since the stipulations were submitted.

Agency Response: There is no process where the BLM can unilaterally add stipulations to a lease once it is issued; except as provided by the lease itself.

Otherwise, lease holders must agree to an added stipulation. The leasing process provides considerable protection for various resources before, during, and after the surface use plan of operations review and approval process. First, the Forest Service uses the best available information when making leasing decisions. Second, at the time specific tracts are to be offered for lease, the Forest Service conducts an administrative review of the leasing decision. The review ensures that if there is significant new information or a circumstance that requires additional environmental analysis be conducted, or leasing would not be consistent with the applicable land management plan, the leasing consent would be withdrawn. Finally, once a lease is issued, regardless of the lack of a stipulation, the BLM, Forest Service, and operators are still responsible for compliance with the Endangered Species Act, National Historic Preservation Act, among other environmental laws. Compliance with these and other laws may lead to specific actions that on operator would need to take (or not take) in its conduct of operations.

Section 228.108 Sundry Notices

37. *Comment:* Comments state that the proposed rule should provide specific language that (1) addresses what surface-disturbing activities must be considered; and (2) provides provisions requiring protection of these resources, including fisheries, wildlife, and plant habitat, and a requirement that the discovery of possible historical or cultural resources be reported to the Agency (as the current rule does at section 228.108(d)), and requirements for protection of habitat for all federally listed and proposed species, and Forest Service sensitive species and species of conservation concern.

Agency Response: As required by 228.108(a), any activities that would cause effects on surface resources would require the Sundry notice to include a surface use plan of operations that is subject to the same Forest Service review and approval. The second part of the comment has been addressed in other responses to comments, including Comment 36.

38. *Comment:* The proposed rule revises the sundry notices section to grant more authority to the BLM and removes oversight by the Forest Service. Again, the proposed rule changes Forest Service regulations to better align with—or in some instances mirror—the BLM regulations. This grants more authority over the use of forest land to an agency that was not established for the purpose of preserving the health and quality of forests and wildlife.

Agency Response: The ''supplemental use plan'' in the existing regulation has the same meaning and function as the term ''sundry notice'' used in the final rule, 43 CFR part 3170, subpart 3171, and other relevant BLM regulations. The final rule's change in terminology from ''supplemental use plan'' to ''sundry notice'' and the reorganization for a stand-alone section 228.109 *Sundry Notices* do not change the roles and responsibilities of the Forest Service or the BLM.

Section 228.109 Bonds

39. *Comment:* A commenter noted that the bond requirement is covered by Onshore Order 1 and much in this section is ''how to'' and is more appropriate for a Forest Service Manual or Handbook.

Agency Response: The bonding requirements and procedures in this section are specific to the Forest Service and supplemental to 43 CFR part 3170, subpart 3171 and are responsive to the 1987 Reform Act. No changes have been made to the section from proposed to final rule.

40. *Comment:* Many form letter comments stated that the proposed rule should require bonds to be posted up front and at sufficient value to cover the full cost of reclamation.

Agency Response: The proposed and final regulation adequately provides for both the bond adequacy and posting requirement prior to ground-disturbing activities.

Section 228.110 Temporary Cessation of Operations

41. *Comment:* A commenter suggested that the cessation of operations notification should occur after 30 days, not 45 days, and under (b) the Forest Service must require not ''may require'' that ''interim measures'' are implemented to protect public lands.

Agency Response: Operators must notify the Forest Service when it becomes apparent that cessation of operations would last longer than 45 days and that the notification occurs well before operations have actually been ceased for 45 days. The language in paragraph (b) has been modified, changing the ''may require'' to ''shall require as necessary'' interim measures to [protect resources] to remove the appearance that the authorize Forest Service officer can make arbitrary decisions regarding protection of resources.

Section 228.111 Compliance and Inspection and Section 228.112 Notice of Noncompliance

42. *Comment:* The Forest Service must maintain a robust inspection and compliance regime to protect our resources from oil and gas pollution on Forest Service lands. This proposed rule substantially absolves both the Forest Service and the oil and gas operators from critical aspects of inspections, compliance, and enforcement. Troublingly, proposed new 36 CFR 228.111 removes the existing law's (228.112(c)) directive that operators must also comply with laws other agencies administer. These include many major environmental statutes like the Clean Water Act, Clean Air Act, and the Endangered Species Act, as well as cultural protection and oil and gas leasing laws. While removing this section does not change whether operators must still comply, it signals the Forest Service's intent to help operators who may be noncompliant with other agency statutes.

Agency Response: The Department disagrees with this interpretation. The inspection and compliance protocols in the proposed regulation are clearer, more efficient, and will result in better outcomes. The section has been left largely unchanged from the proposed to final rules. The minor changes that were made are described in the section-by-section discussion of changes from proposed to final rule.

43. *Comment:* Commenters supported that the proposed rule moves notification of noncompliance ''from a two-step process to a one-step process'' and supported clarifications to an operator's remedial and appeal rights.

Agency Response: As in our response to the previous comment, the Department expects the inspection and compliance protocols in the proposed regulation will result in better compliance administration.

44. *Comment:* Comments state that the proposed revisions to section 228.112 should not allow operators to request extensions of compliance deadlines when noncompliance results from factors that are within the operator's control.

Agency Response: Noting that the Forest Service has sole discretion to extend a compliance deadline, the consideration of extension is based on risk of more damage to resources and the logistical ability to correct the noncompliance and not so much on the underlying cause.

45. *Comment:* Comments state that the Forest Service must be in charge of noncompliance cases.

Agency Response: Forest Service plays an important role in noncompliance issues related to surface uses, but the BLM remains the agency that issues and enforces permits.

46. *Comment:* Acknowledging that this is a comment related to the Forest Service Manual or Handbook, a commenter suggested that in addition to a notice of noncompliance, a letter of ''appreciation for good compliance'' should be used as a positive management tool. If fully compliant operations are noticed and acknowledged, it often leads to an exceeding of ''basic compliance.'' Bragging rights in the oil patch are a large motivator for marginal operators to improve and compete.

Agency Response: The Department agrees that the concept does not belong in this regulation and notes that the majority of operators on National Forest System lands diligently comply with the applicable laws and regulations and conditions of their permits. At times, operators undertake activities not required of them that serve the public's interests.

47. *Comment:* Comments state that when noncompliance is likely to result in danger to public health or safety or in irreparable resource damage, operations shall be suspended, and the shut down shall remain in effect until operations are in compliance ''or it is unlikely that any remaining noncompliance will result in danger to public health, safety, or irreparable resource damage.'' The term ''or'' suggests that an operator may resume operations without fully coming into compliance with the requirements identified in the notice of noncompliance.

Agency Response: The Department has modified text in the final rule to the effect that operations will remain shut down until the applicable requirements identified in the notice of noncompliance have been achieved.

48. *Comment:* Comments express concern that the proposed rule removes penalties for continued non-compliance and allows for damage without punitive consequences. If operators fail to comply with their surface use plan, the proposed regulation establishes a no-harm-no-foul penalty structure. This structure is devoid of any substantive punitive measure and full of grace for noncompliant operators.

Agency Response: For the very small percentage of noncompliant operators that cannot or will not come into compliance, their continued noncompliance could result in civil and criminal penalties under both the BLM and Forest Service regulations per paragraphs (e)(1) and (2) referrals. The objectives of avoidance of unnecessary impacts and diligent correction of violations that do occur can be achieved without establishing additional punitive measures.

49. *Comment:* A State agency requested that the State wildlife agency also be notified of noncompliance for matters that have the potential to affect the statutory authority and public trust responsibility to manage wildlife. This could also include noncompliance for matters that have the potential to affect multiple use on Forest Service lands, namely wildlife related recreation (such as hunting, angling, and wildlife watching).

Agency Response: The Forest Service is committed to cooperating with all State agencies to ensure that operations are conducted in compliance with all Federal, State, and local laws and regulations. This cooperation would include engaging State resource specialists when their agencies' authorities or responsibilities are relevant to oil and gas activities on National Forest System lands. The cooperation often occurs in the form of sharing of information and professional opinions.

Section 228.113 Material Noncompliance

50. *Comment:* Comments state that proposed revisions to section 228.113 unduly favor oil and gas by 1) reducing the factors considered in determining material non-compliance, and 2) making materiality determination and compliance referral largely discretionary. Comments also request language in section 228.113(a)(1) to clarify how irreparable resource damage will be addressed.

Agency Response: The 1990 procedures in the existing regulation for oil and gas material noncompliance proceedings were designed to be consistent with other debarment procedures of the agency that are now defunct, thus prompting their replacement. The final rule's procedures are fair, reasonable, and consistent with both Forest Service and BLM policy. The final rule provides clarity to the procedures to be followed for determining if an operator is in material noncompliance with reclamation or other requirements or standards to better reflect the requirements and consequences established in the Mineral Leasing Act. The final rule does not materially change an operator's requirements and responsibilities.

51. *Comment:* Referring to section 228.113 (c), in cases of material noncompliance, ''the Forest Service shall advise the BLM not to issue or approve the assignment of any lease to the entity determined to be in material noncompliance,'' a commenter suggested the proposed rule should be modified to clarify that this advisement is binding until the operator comes into compliance. Additionally, relating to section 228.113 (c) and (d), the commenter suggested a minimum time period should be applied during which the operating entity may not be approved for a lease, regardless of when they come back into compliance.

Agency Response: The comment prompted us to review the language of the paragraph. The final rule removes the ''advise'' language and simply requires the Forest Service to notify the BLM of its findings. Per statute, the BLM administers the ineligibility of an entity to acquire a new lease. Notably, section 17(g) of the Mineral Leasing Act of 1920 as amended (MLA), 30 U.S.C. 226(g), provides: ''The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied.'' For the second part of the comment, the ''minimum time period'' suggestion appears punitive and unnecessary as discussed in our response to comment *48.-*.

Section 228.114 Posting Requirements

52. *Comment:* The proposed posting requirements will no longer provide direction about posting decisions. The Agency's explanation is that the National Environmental Policy Act regulations direct that action. Again, this is a situation where the Agency removes a required internal procedure in favor of meeting the bare minimum required by the National Environmental Policy Act.

Agency Response: Changes to the minimum posting durations are in alignment with BLM's processes. The Department anticipates that the public will not perceive any reduction of notifications concerning these actions or the ability to engage with the Forest Service.

Section 228.115 Information Collection Requirements

53. *Comment:* USDA requested comments on whether the proposed rule would lessen the burden of collecting and reporting information and data as advocated by the Paperwork Reduction Act of 1995. Industry commenters generally appeared to believe that aligning Forest Service oil and gas leasing regulations with BLM regulations, as proposed, should decrease the paperwork burdens on lessees, operators and small businesses in the oil and gas industry.

Agency Response: The Department expects there to be some efficiencies gained, though small and unquantifiable.

Conforming Technical Amendments

This final rule makes minor, non-substantive changes to two other regulations for purposes of conforming with the modifications being made to 36 CFR part 228, subpart E.

In 36 CFR 214.4(b)(3), the phrase ''request to supplement a surface use plan of operation'' is changed to ''requests concerning the surface use portion of a sundry notice'' to track language in the final rule. The final rule also adds two additional appealable decisions: (1) requests for a waiver or exemption from, or modification to, an oil and gas lease stipulation, and (2) requests for an extension of the time period for taking action in response to a notice of noncompliance.

In 36 CFR 261.2, which includes definitions applicable to the Agency's law enforcement regulations, the definition of ''operating plan'' is changed by replacing the phrase ''supplemental surface use plan of operation'' with ''surface use portion of a sundry notice.''

Regulatory Certifications

Executive Order 12866 Regulatory Planning and Impact Analysis (Analysis of Costs and Benefits)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant regulatory actions. The Office of Information and Regulatory Affairs has determined that this rule is significant pursuant to section 3(f) of E.O. 12866. Therefore, a regulatory impact analysis analyzing the costs and benefits of the proposed regulation was needed to comply with E.O. 12866. The potential benefits and costs, as well as distributional impacts, associated with the proposed rule were analyzed to fulfill the regulatory impact analysis requirements, consistent with E.O.12866 and OMB Circular A–4.

The regulatory impact analysis considers costs and benefits associated with updates, modifications, or clarifications to different sections of 36 CFR part 228, subpart E, as they relate to key procedural steps for oil and gas leasing and permitting on National Forest System lands. Changes in costs and benefits are discussed in a primarily qualitative manner due to the challenges with quantifying costs and benefits at a programmatic level. Quantitative proxies were used when feasible to help describe the potential frequency or magnitude of activities and corresponding costs affected by the proposed rule.

The direct benefits of the proposed rule identified were reduced costs and time spent on identifying available lease areas, approving operations, and addressing compliance actions, including costs and time incurred by the Agency as well as by proponents engaged in or pursuing oil and gas operations on National Forest System lands. Indirect benefits can result from expedited access to leasable oil and gas resources on National Forest System lands, including time-valued oil and gas revenue or returns to operators as well as time-valued bids, lease rentals, and royalties paid by operators to the Federal government and public.

Some operators may have to apply for special use authorizations or pay an administrative fee to mitigate emergency non-compliance situations under the rule; however, these situations are expected to be infrequent or involve relatively small incremental costs. Rule provisions clarifying considerations for establishing bonds that cover the full cost of reclamation, consistent with the existing rule, may result in increases in bonds and increases in operator costs for obtaining financial guarantees (such as surety bonds) to cover incremental bond amounts. The financial risks associated with reclamation default are currently borne by the Agency or public when bonds do not reflect full reclamation costs, implying this rule helps transfer the burden of those financial risks to the operators and administer reclamation in a fiscally responsible manner, consistent with the intent of the existing rule. These analyses are updated using fiscal year 2022 data. The updates do not change the conclusions of the draft rule analysis. The final rule is not expected to have a significant or measurable impact on rates of oil and gas production on National Forest System lands; oil and gas prices and other market factors are likely to drive future changes in growth of development and production. Because of minimal impacts on production, the rule is equally unlikely to have significant distributional impacts on jobs or income contributions from oil and gas activities on National Forest System lands.

The rule is expected to result in positive net benefits. Most provisions of the rule are expected to reduce the times for reviewing and approving leases and permits, thereby saving operator and Agency costs and expediting opportunities for production and revenue. Exceptions might include cases where some operators may have to apply for special use authorizations, pay an administrative fee to mitigate emergency non-compliance situations under the rule, or be faced with increases in reclamation bond amounts. However, these situations are expected to be infrequent, involve relatively small incremental costs, or consist of payments that shift financial risk of reclamation default back to the operators and away from the public, consistent with the intent of the existing rule. The regulatory impact analysis is available with the supporting documents at *http://www.regulations.gov.*

Executive Order 14192 Unleashing Prosperity Through Deregulation

Executive Order 14192 requires that any new incremental costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.'' This final rule is expected to be deregulatory under E.O. 14192.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804(2). Findings in the regulatory impact analysis for the rule indicate that it is unlikely to have significant impacts on job or income contributions from oil and gas activities on National Forest System lands. Therefore, the revised regulation is not classified as major.

Energy Effects

The rule was reviewed under Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.* The rule is not expected to have a measurable effect (positive or negative) on oil and/or gas supply or distribution. The Agency regulation does not make decisions about which lands are open or closed to

leasing and subsequent development but instead manages the process. The rule streamlines the oil and gas leasing process and clarifies processing procedures for the surface use plan of operation portion of an application for permit to drill on National Forest System lands. The streamlining should reduce time and costs of permitting or leasing.

The rule is not expected to have a significant adverse effect on the supply, distribution, or use of energy; on competition or prices; or on other agency actions related to energy. The rule is not expected to raise novel issues regarding adverse effects on energy. The rule is therefore not expected to be a significant energy action or to require a statement of energy effects, consistent with Office of Management and Budget guidance for implementing Executive Order 13211.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

The Agency has reviewed this rule under U.S. Department of Agriculture procedures and Executive Order 13771, issued January 30, 2017. The Office of Management and Budget has reviewed this rule and designated it as significant per Executive Order 12866. Executive Order 13771 requires that agencies account for the incurred costs that a significant regulatory action may have on the public and offset such costs with the removal of two other significant regulatory actions.

The total or aggregate net benefits associated with the rule cannot be quantified; however, they are expected to be small or slightly more than the estimated Agency cost savings. Thus, the rule is considered a deregulatory action per Executive Order 13771.

National Environmental Policy Act

The Agency prepared a programmatic environmental assessment to determine whether this rule would have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). The programmatic environmental assessment describes and analyzes two alternatives: the rule (proposed action) and continuing with the existing regulations (no action). The programmatic environmental assessment is available for review with the supporting documents for this regulation at *http://www.regulations.gov.* The final programmatic environmental assessment supports a finding of no significant impact for the rule; therefore, preparation of an environmental impact statement pursuant to the National Environmental Policy Act is not required.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

This rule has been reviewed in accordance with the requirements of Executive Order 13175. Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications (including regulations, legislative comments or proposed legislation, and other policy statements or actions) that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. To ensure Tribal perspectives were heard and fully considered during rulemaking, the Agency contacted all federally recognized Indian Tribes and Alaska Native Corporations in accordance with Executive Order 13175, (Consultation and Coordination with Indian Tribal Governments); USDA Departmental Regulation 1350–02 (Tribal Consultation, Coordination and Collaboration); and Forest Service Handbook 1509.13, chapter 10 (Consultation with Indian Tribes and Alaska Native Corporations). The Agency initiated formal consultation on the rulemaking by contacting the Indian Tribes and Alaska Native Corporations by mail.

The consultation period began in September 2018 and continued until January 2, 2021, or 60-days beyond the close of the 60-day public comment period on the proposed rule. Consultation materials included the advance notice of proposed rulemaking, briefing documents that outline possible revisions of the existing regulations and the reasons why these changes are being proposed, a list of frequently asked questions, and two webinars.

The consultation process included two in-person regional Tribal consultation meetings in the Forest Service's Southwest Region: one was held on October 29, 2018, in Albuquerque, New Mexico, and the other on October 31, 2018, in Flagstaff, Arizona. During the consultation meeting on October 31, 2018, the Hopi Tribe requested additional face-to-face consultation with the Regional Forester. The Agency also received written comments from the Hopi Tribe and the Rincon Band of Luiseno Indians by letter and from the Federated Indians of Graton Rancheria by email. Most comments stated that the Tribes will be provided additional review and comment once the Agency releases the proposed rule, as part of the consultation process.

An invitation to consult on the proposed revisions to our Oil and Gas Resources regulations was sent to all Tribal leaders or their representative on the September 1, 2020, date of the proposed rule's publication. The invitation included information about two upcoming webinars on September 22 and 23, 2020, as well as a 228E change comparison table and a summary analysis of the proposed rule.

Tribal comments were received and considered on the proposed rule through consultation efforts. Tribal communications centered around acknowledgement of the proposed regulations and included requests for extension of the public comment time. Though the Forest Service declined to extend the 60-day public comment period, the Agency responded to requests for an extension by clarifying that the Tribal consultation period was open until January 2, 2021, or 60-days beyond the 60-day public comment period. Additional comments were not submitted during that time.

The Director of the Office of Tribal Relations certified by signature that the review and analysis of the 228E regulation revision was conducted in accordance with Departmental Regulation 1350–002, Tribal Consultation and Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments.*

Regulatory Flexibility Act and Small Business Analysis

The Agency considered the impacts of the rule on small entities, consistent with requirements of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, and Executive Orders 13272 and 13563 (*Proper Consideration of Small Entities in Agency Rulemaking*). Under the Regulatory Flexibility Act, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (such as small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities potentially impacted by the proposed rule include small

businesses (firms) involved in oil and gas extraction operations (North American Industry Classification System (NAICS) 211120 (crude petroleum extraction) and NAICS 211130 (natural gas extraction)), drilling oil and gas wells (NAICS 213111), and support activities for oil and gas operations (NAICS 213112). The rule does not affect the terms, conditions, and stipulation of existing leases. The rule can impact businesses that express interest in or decide to bid on new leases or otherwise decide to engage in oil and gas development and operations on National Forest System lands currently under lease or that may come under lease in the future. The rule provides both direct and indirect benefits to small businesses depending on whether the business holds leases or provides drilling and other support services.

There were 260 different firms operating oil and gas producing wells on National Forest System lands as of September 2022, of which 249 (96 percent) are estimated to be small businesses based on the Small Business Administration small business criterion of 1,250 employees for NAICS 211120 and NAICS 211130. The rule will primarily impact a subset of operators that express interest in leasing National Forest System lands or applying for permits to drill new wells on lands managed by the Forest Service in the future. As an estimate for the subset of affected small businesses, the Forest Service used the average of 75 surface plans of operations for new wells that were approved annually, from 2018 through 2022, and assumed each new surface use plan of operations is submitted by a different firm (which is unlikely and provides a high side estimate). Other aspects of the rule will likely go unnoticed by operators. For example, compliant operators will likely experience no effects from new procedures that the Agency will follow to monitor for compliance. For comparison to the effect on 75 small businesses annually, the estimated number of small firms associated with the oil and gas extraction sector (NAICS 211120 and NAICS 211130) for the Nation is approximately 4,500 based on Census Bureau, 2020 statistics for U.S. businesses. Therefore, the percent of small businesses impacted by the rule on an annual basis is projected to be small (75 of 4,500 is 1.7 percent).

The aggregate impact of the rule, compared to baseline regulatory conditions, is expected to be positive for a majority of the entities involved in oil and gas leasing, development, and operations on National Forest System lands, as noted in the regulatory impact analysis. Provisions of the rule are expected to reduce the times for reviewing and approving leases and permits, thereby saving operator costs and expediting opportunities for production and revenue. Exceptions might include cases where some operators (i) may be faced with increases in costs to obtain financial guarantees (such as surety bonds) to cover incremental increases in bond amounts to help cover full reclamation costs consistent with the existing rule, (ii) have to apply for special use authorizations, or (iii) pay an administrative fee to mitigate emergency non-compliance situations under the rule (however, these situations are expected to be infrequent, involve relatively small incremental costs, or reflect transfers of financial risk back to operators as intended by the existing rule). Based on the evidence summarized above, the rule is expected to increase opportunities for net benefits to small entities on average. The number of small entities that would be impacted is not likely to be substantial. The Department therefore certifies that this rule will not have a significant economic impact on a substantial number of small entities indicating that an initial regulatory flexibility analysis is not required.

More information on the Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act determination is available with the supporting documents for this regulation at *http://www.regulations.gov.*

Federalism

The Agency considered this rule under the requirements of Executive Order 13132, *Federalism*. The Agency has concluded that the rule conforms to the federalism principles set out in this Executive Order. It will not impose any compliance costs on the States and will not have substantial direct effects on the States or the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary.

Taking of Private Property (Executive Order 12630)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights,* and it has been determined that the rule does not pose the risk of a taking of protected private property. This rule affects management of Federal oil and gas resources and does not apply to privately held oil and gas rights.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. More specifically, this rule meets the criteria of section 3(a), which requires agencies to review all regulations to eliminate errors and ambiguity and to write all regulations to minimize litigation. This rule also meets the criteria of section 3(b)(2), which requires agencies to write all regulations in clear language with clear legal standards.

Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Agency has assessed the effects of the rule on State, local, and Tribal governments, and on the private sector. This rule would not compel the expenditure of $100 million or more by State, local, or Tribal governments, in the aggregate, or by the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

Paperwork Reduction Act

This final rule contains a collection of information for which the Agency is following the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The final rule does not establish any new information collection requirements.

List of Subjects

36 CFR Part 214

Administrative practice and procedure, National forests.

36 CFR Part 228

Environmental protection, Mines, National forests, Oil and gas exploration, Lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

36 CFR Part 261

Law enforcement, National forests.

Therefore, for the reasons set forth in the preamble, the Forest Service is amending chapter II of title 36 of the Code of Federal Regulations as follows:

PART 214—POST-DECISIONAL ADMINISTRATIVE REVIEW PROCESS FOR OCCUPANCY OR USE OF NATIONAL FOREST SYSTEM LANDS AND RESOURCES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 7 U.S.C. 1011(f); 16 U.S.C. 472, 551.

■ 2. Amend § 214.4 by revising paragraph (b)(3) to read as follows:

§ 214.4 Decisions that are appealable.

* * * * *

(b) * * *

(3) Approval or denial of a surface use plan of operations, request concerning the surface use portion of a sundry notice, request for a waiver or exception from or modification to an oil and gas lease stipulation, shut down of oil and gas operations, issuance of a notice of noncompliance, or denial of a request for noncompliance notice deadline extension pursuant to 36 CFR part 228, subpart E;

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PART 228—MINERALS

■ 3. The authority citation for part 228 continues to read as follows:

Authority: 16 U.S.C. 478, 551; 30 U.S.C. 226, 352, 601, 611; 94 Stat. 2400.

■ 4. Revise subpart E to read as follows:

Subpart E—Oil and Gas Resources

Sec.

228.100 Scope and applicability.
228.101 Definitions.
228.102 Issuance of notices to lessees and operators.
228.103 Leasing analysis and consent decision.
228.104 Consideration of requests to waive, except, or modify lease stipulations.
228.105 Responsibilities of operators.
228.106 Operator's submission of surface use plan of operations.
228.107 Review and approval of surface use plan of operations.
228.108 Sundry notices.
228.109 Bonds.
228.110 Temporary cessation of operations.
228.111 Compliance and inspection.
228.112 Notice of noncompliance.
228.113 Material noncompliance.
228.114 Posting requirements.
228.115 Information collection requirements.

Authority: 16 U.S.C. 478, 551; 30 U.S.C. 226, 352, 601, 611.

Subpart E—Oil and Gas Resources

§ 228.100 Scope and applicability.

(a) *Scope.* This subpart sets forth the rules and procedures by which the Forest Service, United States Department of Agriculture will carry out its statutory responsibilities for the conservation of surface resources associated with oil and gas leasing on National Forest System lands, for approving surface use requirements related to exploration and development on National Forest System lands, for inspecting surface-disturbing operations on such leases, and for enforcing surface use and reclamation requirements. This subpart also establishes requirements for lessees and/or operators to minimize, mitigate, or prevent unnecessary or unreasonable impacts on National Forest System lands and resources.

(b) *Applicability.* The rules of this subpart apply to National Forest System lands subject to Federal oil and gas leases, and to operations that are conducted within such leases. The regulations in this subpart do not apply to the development of non-Federal oil and gas interests pursuant to reserved and outstanding rights.

(c) *Applicability of other rules.* Other rules that apply are:

(1) Application requirements for proposing oil or gas wells, along with the procedures the Federal agencies follow for approving oil and gas wells, certain subsequent well operations, and abandonment, are established in the Forest Service and Bureau of Land Management joint rule, Onshore Oil and Gas Order Number 1, now codified in 43 CFR part 3170, subpart 3171.

(2) The Bureau of Land Management regulations at 43 CFR parts 3160 and 3170, and Bureau of Land Management-issued Notices to Lessees and Operators also apply to oil and gas leasing and operations on National Forest System lands, where applicable.

(3) Surface uses associated with oil and gas activities that are conducted on National Forest System lands outside a lease or agreement are subject to Forest Service authorization under regulations set forth elsewhere in this chapter, including but not limited to the regulations set forth in 36 CFR part 251, subpart B, and 36 CFR part 261.

§ 228.101 Definitions.

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

Acquired lands. Lands that are obtained by purchase, donation, or other mechanism, and which have previously been patented and which have been reacquired by the United States.

Agreement. A Bureau of Land Management-approved Oil and Gas Unit Agreement or Communitization Agreement (see 43 CFR 3100.5).

Authorized Forest Service officer. The Forest Service line officer who has the delegated authority to take the action described in this subpart is generally, depending on the scope and level of the duty to be performed, a regional forester; a forest, grassland, or prairie supervisor; or a district ranger.

Compliance Officer. The Deputy Chief, National Forest System; or the Associate Deputy Chief, or other line officer designated to act in the absence of the Deputy Chief.

Conditions of approval. Site-specific requirements shall be included with the approval of a surface use plan of operations where necessary to limit or modify the specific activities covered in the plan. Conditions of approval minimize, mitigate, or prevent impacts on National Forest System lands, resources, and interests.

Consent. For the purposes of this subpart means to notify the Bureau of Land Management that either the Forest Service does not object to leasing specific National Forest System lands reserved from the public domain or consents to leasing on specific acquired lands, subject to general terms and conditions and specified stipulations.

Final Abandonment Notice (FAN). An operator submits a FAN to notify the Bureau of Land Management and the surface management agency that final reclamation has been completed, that the surface has been reclaimed in accordance with previous approval(s), and that the well site or other facility is ready for inspection and consideration for release from liability under the bond.

Infrastructure or facilities. The basic physical components (such as buildings, roads, power supply, equipment, pipelines, storage tanks) associated with the development and production of oil and gas, whether located within or outside a lease or agreement boundary.

Lease. Any contract or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas.

Lessee. A person or entity holding record title in a lease issued by the United States. A lessee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title (see 43 CFR 3100.5).

Master development plan. A plan submitted by an operator(s) to the Bureau of Land Management that contains information common to multiple planned wells, including drilling plans, surface use plans of operations, and plans for future production.

Master surface use plan of operations. A plan for surface use, disturbance, and reclamation for two or more wells.

Material noncompliance. A Forest Service determination that an operator or lessee has materially failed or refused to take necessary corrective actions, complete reclamation, maintain required bonds, or reimburse the Agency for the costs of abating an emergency, as further described in § 228.113, in a timely manner.

National Forest System lands. All lands, waters, or interests therein administered by the U.S. Department of Agriculture (USDA) Forest Service as provided in 16 U.S.C. 1609.

Notices to Lessees and Operators. A written notice issued by the authorized Forest Service officer or the Bureau of Land Management. Notices to Lessees and Operators serve as requirements related to specific item(s) of importance within a State, Forest Service region, national forest, grassland or prairie, or ranger district, or other area.

Operator. Any person or entity, including, but not limited to, the lessee or operating rights owner, who has stated in writing to the authorized officer of the Bureau of Land Management that the person or entity is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof.

Reasonably Foreseeable Development Scenario (RFDS). A projection of oil and gas exploration, development, production, and reclamation activity. The RFDS estimates the oil and gas activity in a defined area for a specified period of time. The RFDS projects a baseline scenario of activity assuming all potentially productive areas are open to lease under standard lease terms, except those areas designated as closed to leasing by statute or regulation or areas withdrawn by the Secretary of the Interior.

Stipulation. A provision that modifies standard lease terms and is attached to, and made a part of, the lease by the Bureau of Land Management. The Forest Service may include stipulations as part of its consent to lease determination to conserve surface resources and to minimize, mitigate, or prevent adverse impacts on lands and resources. Stipulations constrain where, when, or how the surface lands may be used for exploration and development activities.

Sundry notice. An operator's request submitted to the Bureau of Land Management to perform work or conduct lease operations not covered by another type of permit or authorization, or to change operations in a previously approved permit; or a subsequent report of completed activities; or a final abandonment notice.

Surface use plan of operations. A plan for surface use, disturbance, and reclamation, and is a component of an application for permit to drill or sundry notice. The requirements for the surface use plan of operations are described in detail in 36 CFR 228.107, as well as 43 CFR part 3170, subpart 3171.

Waiver, exception, or modification. Refers to a change to a lease stipulation including:

(1) *Waiver.* Permanent exemption from a lease stipulation. The stipulation no longer applies anywhere within the lease.

(2) *Exception.* Case-by-case exemption from a lease stipulation. The stipulation continues to apply to all other sites within the lease to which the restrictive criteria, as described in the lease stipulation, apply.

(3) *Modification.* A change to the provisions of a lease stipulation, either temporarily or for the term of the lease. A modification may, therefore, include an exemption from or alteration to a stipulated requirement. Depending on the specific modification, the stipulation may or may not apply to all other sites on the lease to which the restrictive criteria, as described in the lease stipulation, apply.

§ 228.102 Issuance of notices to lessees and operators.

The authorized Forest Service officer may issue Notices to Lessees and Operators necessary to implement the regulations of this subpart either independently with notification to the Bureau of Land Management or jointly with the Bureau of Land Management. Notices to Lessees and Operators apply to all operations conducted by Federal lessees on National Forest System lands supervised by the authorized Forest Service officer who issued such notice.

§ 228.103 Leasing analysis and consent decision.

(a) *Scheduling leasing consent analysis.* The Forest Service Washington Office shall develop, in cooperation with the Bureau of Land Management, Forest Service regional offices, and national forest and grassland units, a schedule for analyzing all National Forest System lands with oil and gas resource potential for leasing in consideration of the following:

(1) The schedule shall identify whether each analysis will be part of a land management plan or will be a separate leasing analysis.

(2) Scheduling shall consider the level of leasing interest expressed by the public.

(3) The Forest Service shall review, revise, or make additions to the schedule at least annually.

(b) *Leasing consent analysis.* The authorized Forest Service officer shall conduct a forest-wide or area-specific leasing analysis in either a land management plan or a separate leasing analysis. The Bureau of Land Management shall be invited to participate as a cooperating agency in the leasing consent analysis. In determining lands open or closed for leasing, the authorized Forest Service officer shall:

(1) Identify and exclude from further review the lands which are ineligible for leasing by statute, regulation, or withdrawal by the Secretary of the Interior.

(2) Consider a Reasonably Foreseeable Development Scenario that projects the type/amount of post-leasing activity that is reasonably foreseeable on eligible lands within the analysis area.

(3) Develop reasonable alternatives, including a no-leasing alternative. The alternatives must include lease stipulations that would be applied.

(4) Analyze the impacts of post-leasing activity projected under this paragraph (b)(4).

(5) Develop lease stipulations that are consistently applied and coordinated between agencies and are only as restrictive as necessary to protect the resource or resources for which the stipulations are applied.

(6) Include, in the analysis, maps showing lands open to leasing, lands closed to leasing, and applicable stipulations for each alternative.

(c) *Leasing consent decision.* (1) Upon completion of the leasing consent analysis, the authorized Forest Service officer shall issue a leasing consent decision to the authorized officer of the Bureau of Land Management that identifies all National Forest System lands covered by the leasing consent analysis as:

(i) Open to leasing, subject to the terms and conditions of the standard oil and gas lease form (including an explanation of the typical standards and objectives to be enforced under the standard lease terms);

(ii) Open to leasing, subject to constraints that will require the use of lease stipulations; or

(iii) Closed to leasing, distinguishing between those areas that are being closed through exercise of management direction and those areas that are closed by virtue of a statute, regulation, or withdrawal.

(2) Leasing consent decisions made pursuant to this subpart shall be subject to a predecisional objection process conducted in accordance with the procedures set forth in 36 CFR part 219, subpart B, whether the leasing consent

decision is made as part of a land management plan or separately.

(d) *Effect of leasing consent decision.* An authorized Forest Service officer's identification of lands as open to leasing does not commit the Bureau of Land Management to future leasing actions, nor does it constitute an irretrievable or irreversible commitment of resources.

(e) *Review of leasing consent availability decision for specific lands.* (1) At the time specific lands identified under paragraph (c) of this section are scheduled for leasing by the Bureau of Land Management, the Forest Service shall review the leasing consent availability decision to:

(i) Verify that oil and gas leasing of the specific lands has been adequately addressed in a National Environmental Policy Act (NEPA) document and is consistent with the applicable land management plan;

(ii) Ensure lease stipulations are applied consistent with the leasing consent decision and reflect resource conditions on the lands in the nomination; and

(iii) Determine that operations and development could be allowed somewhere on each proposed lease, except where stipulations will prohibit all surface occupancy.

(2) If there is significant new information or a circumstance that requires additional environmental analysis be conducted, or leasing would not be consistent with the applicable land management plan, leasing consent will not be provided or will be withdrawn.

(3) The Forest Service will provide notification to the Bureau of Land Management of results of the review confirming the Forest Service consent decision for specific lands or withdrawing its leasing consent for specific parcels. If the consent is withdrawn, the notification will describe the reasons for the withdrawal and provide an anticipated course of action, including any additional environmental analysis to be conducted of the leasing consent analysis decision as expeditiously as possible consistent with paragraph (a) of this section.

(4) Verification or withdrawal of a leasing consent determination made pursuant to this paragraph (e) is not subject administrative appeal or objection.

§ 228.104 Consideration of requests to waive, except, or modify lease stipulations.

(a) *General.* (1) The Bureau of Land Management's oil and gas leasing regulations at 43 CFR 3101.14 and 3171.24 outline requirements for the lessee or their designated operators to request waivers, exceptions, or modifications to lease stipulations.

(2) Where the request involves stipulations included in the lease as prescribed by the Forest Service, the Bureau of Land Management must obtain approval from the Forest Service before granting a request for a waiver, exception, or modification.

(b) *Requesting a waiver, exception, or modification.* Requests to waive, except, or modify a lease stipulation are subject to procedures in 43 CFR part 3170, subpart 3171. In addition to information required in 43 CFR part 3170, subpart 3171, the operator should submit any information that might assist the authorized Forest Service officer in assessing whether or not to approve a waiver, exception, or modification.

(c) *Criteria for approval.* A request for a waiver, exception, or modification to a lease stipulation may be approved by the authorized Forest Service officer if the officer determines the following, after reviewing the present condition of the surface resources involved and the nature, location, timing, and design of the proposed operations:

(1) The action would be consistent with applicable Federal laws.

(2) The action would be consistent with the current land management plan.

(3) The management objectives which led the Forest Service to require the inclusion of the stipulation in the lease can be met if the waiver, exception, or modification is granted.

(4) The action is acceptable to the authorized Forest Service officer based upon a review of the environmental consequences.

(d) *Coordination with other agencies.* If a lease stipulation was included in a lease by the Forest Service at the request of another agency, or if another agency has specific jurisdiction over the specific resource, the authorized Forest Service officer shall coordinate with that agency prior to approving a waiver, exception, or modification. This paragraph (d) does not require the consent of such an agency to the waiver, exception, or modification unless such consent is independently required by statute or regulation.

(e) *Notice of determination.* The authorized Forest Service officer shall notify the Bureau of Land Management in writing whether or not the request should be granted and shall provide all information used to make the determination.

§ 228.105 Responsibilities of operators.

(a) *General.* The lessee or operator shall conduct operations on National Forest System lands in a manner that minimizes effects on surface resources and reduces conflicts with other land uses by avoiding unnecessary or unreasonable surface resource disturbance.

(1) At a minimum, the operator must:

(i) Control soil erosion and mitigate land instability caused by their operations;

(ii) Control water runoff from their operations;

(iii) Remove, or control, solid wastes, toxic substances, and hazardous substances attributable to their operations;

(iv) Reshape and revegetate areas disturbed by their operations;

(v) Remove structures, improvements, facilities, and equipment no longer needed in the conduct of operations, unless otherwise authorized;

(vi) Take measures to preclude introduction of nonnative invasive species that could otherwise result from their operations;

(vii) Take measures to reclaim surface areas disturbed by their operations;

(viii) Unless otherwise approved by the authorized Forest Service officer, initiate interim reclamation activity within 1 year of completion of operations on the affected area. Interim reclamation shall be conducted concurrently with other operations; and

(ix) Promptly clean up and remove from National Forest System lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system (16 U.S.C. 1609) any released oil, produced water, toxic substances, or other contaminating substances attributable to their operations in accordance with all applicable Federal, State, and local laws and regulations.

(2) Operators shall use existing roads and utility corridors wherever possible.

(3) All spills or leakages of oil, gas, produced water, toxic liquids, or waste materials; blowouts; fires; personal injuries; and fatalities that are reported to the Bureau of Land Management according to applicable orders, notices to lessee, and/or approved surface use plan of operations shall also be reported to the authorized Forest Service officer.

(b) *Compliance with other statutes and regulations.* The operator is responsible for complying with applicable Federal and State laws and regulations. The operator must also comply with notices to lessees issued pursuant to this subpart.

(c) *Access.* Operators must allow authorized Forest Service employees access to drilling and production sites and to any other locations on National Forest System lands where operations pursuant to a lease are being conducted.

(d) *Other Forest Service authorizations.* To the extent required by applicable statutes and regulations, the operator shall obtain other Forest Service authorizations such as timber contracts, road use permits, or special use authorizations for other uses of National Forest System lands.

(e) *Safety measures.* (1) The operator must maintain structures, facilities, improvements, and equipment located on the area of operation in a safe and well-maintained manner and in accordance with the applicable approval(s).

(2) The operator must take appropriate measures in accordance with applicable Federal and State laws and regulations to protect the public from hazardous sites or conditions resulting from the operations. Such measures may include, but are not limited to, posting signs, building fences, or otherwise identifying a hazardous site or condition.

(3) The operator shall conduct its activities in a manner that avoids the cause or minimizes the spread of fire.

(f) *Liability.* The operator and lessee are jointly and severally liable in accordance with Federal and State laws to the United States for:

(1) Injury, loss, or damage, including fire suppression costs, incurred by the United States as a result of the operations; and

(2) Payments made by the United States in satisfaction of claims, demands, or judgments for an injury, loss, or damage, including fire suppression costs, incurred as a result of the operations.

§ 228.106 Operator's submission of surface use plan of operations.

(a) *General.* (1) The provisions of this section apply to both surface use plans of operations and master surface use plans of operations. Operators shall submit Applications for Permit to Drill or master development plans in accordance with 43 CFR part 3170, subpart 3171, to the Bureau of Land Management. The application for permit to drill or master development plan shall include the surface use plan of operations or master surface use plan of operations.

(2) A master surface use plan of operations can be submitted with a master development plan or with an individual application for permit to drill. If a master surface use plan of operations has been submitted, then subsequent Applications for Permit to Drill can reference the master surface use plan of operations if they are consistent with the master surface use plan of operations.

(b) *Preparation of the surface use plan of operations.* In preparing a surface use plan of operations, the operator must ensure that it contains the mandatory components of 43 CFR part 1370, subpart 3171, and provisions of § 228.105. The operator is also encouraged to contact the local Forest Service office to make use of such information as is available from the Forest Service concerning surface resources and uses, standard conditions of approval, environmental considerations, and local reclamation procedures. The surface use plan of operations must be consistent with lease terms and stipulations.

(c) *Content of surface use plan of operations.* The type, size, and intensity of the proposed operations and the sensitivity of the affected surface resources by the proposed operations determine the level of detail and the amount of information which the operator includes in a proposed surface use plan of operations. The surface use plan of operations shall also include planned infrastructure or facilities, to the extent known, to be used to execute the surface use plan of operations. This submission should specify what facilities or infrastructure are located within lease or agreement boundaries, and those that are located outside lease or agreement boundaries.

§ 228.107 Review and approval of surface use plan of operations.

(a) *General.* The provisions of this section apply to both surface use plans of operations and master surface use plans of operations. An operator must obtain an approved application for permit to drill from the Bureau of Land Management before conducting operations. No permit to drill on National Forest System lands may be granted without a Forest Service-approved surface use plan of operations covering proposed surface-disturbing activities. Approval or denial of a surface use plan of operations proposed to be documented in a Decision Notice or Record of Decision is subject to the predecisional objection process set forth in 36 CFR part 218 and post-decisional appeal process as provided in 36 CFR 214.4(b)(3).

(b) *Review.* The authorized Forest Service officer shall give public notice of any proposed decision on a surface use plan of operations to be documented in a Decision Notice or Record of Decision and identify that the proposed decision is subject to the 36 CFR part 218 pre decisional objection process. The authorized Forest Service officer shall review the surface use plan of operations following the procedures in 43 CFR part 3170, subpart 3171, to ensure that:

(1) The surface use plan of operations contains the mandatory components of 43 CFR part 1370, subpart 3171, and § 228.105;

(2) The surface use plan of operations is consistent with the lease, including the lease stipulations, and applicable Federal laws; and

(3) To the extent consistent with the rights conveyed by the lease, the surface use plan of operations is consistent with, or can be modified to be consistent with, the applicable land management plan.

(c) *Analysis and decision.* When the review of the surface use plan of operations is completed, the authorized Forest Service officer shall:

(1) Approve the surface use plan of operations as submitted; or

(2) Approve the surface use plan of operations subject to specified conditions of approval; or,

(3) Deny the surface use plan of operations for the reasons stated.

(d) *Timing of decision.* If a decision on a surface use plan of operation cannot be made within 30 days of a complete application, the authorized Forest Service officer shall advise the appropriate Bureau of Land Management office as soon as it becomes apparent that additional time will be needed to process the plan. The authorized Forest Service officer shall follow procedures described in 43 CFR part 1370, subpart 3171, to explain why additional time is needed and project the date by which a decision on the surface use plan of operation will likely be made. The authorized Forest Service officer shall also notify the applicant of any action the applicant could take that would enable the Forest Service officer to issue a final decision on the surface use plan of operations.

(e) *Notice of decision.* The authorized Forest Service officer shall give public notice of the final decision on a surface use plan of operations and identify in the notice that the decision may only be appealed by the applicant under 36 CFR part 214.

(f) *Notifying the Bureau of Land Management.* The authorized Forest Service officer shall promptly notify the Bureau of Land Management if a surface use plan of operations is approved, including conditions of approval, if any, or whether it has been denied. This transmittal shall include the estimated additional surface use bond amount to be required (§ 228.109), if any.

§ 228.108 Sundry notices.

(a) *General.* For activities that require a sundry notice under Bureau of Land

Management regulations (43 CFR 3162.3–2), the operator must submit the sundry notice to and obtain approval from the Bureau of Land Management. If the activity would cause effects on surface resources, the sundry notice must include a surface use plan of operations that is subject to Forest Service approval. The sundry notice need only address those operations that differ from those authorized by the current approved surface use plan of operations.

(b) *Review and approval.* If Forest Service approval is required, the authorized Forest Service officer shall determine whether the activity would be subject to additional environmental review or analysis. If the activity would cause effects on surface resources not authorized by the currently approved surface use plan of operations, the sundry notice is subject to the same requirements of §§ 228.106 and 228.107. Following review or analysis, the authorized Forest Service officer shall notify the Bureau of Land Management whether the Forest Service approves the new surface use plan of operations.

§ 228.109 Bonds.

(a) *General.* (1) As part of the review of a proposed surface use plan of operations, the authorized Forest Service officer shall review existing bond amount(s) to determine if they are sufficient to ensure complete and timely reclamation of surface disturbances and restoration of any lands or surface waters adversely affected by lease operations. The review shall include a determination of whether the performance bond held by the Bureau of Land Management is adequate to meet the requirements of this paragraph (a)(1).

(2) If at any time prior to, or during the conduct of operations, the authorized Forest Service officer determines that the performance bond amount held by the Bureau of Land Management is not adequate to ensure complete and timely reclamation and restoration of National Forest System lands, the authorized Forest Service officer may review and require a bond amount specifically for reclaiming surface disturbance.

(b) *Considerations for reviewing bond adequacy.* In assessing whether a bond is sufficient, the authorized Forest Service officer:

(1) Shall consider the scope and full extent of the operator's proposed operations, associated surface disturbance, and infrastructure, and performance history and risk posed by the operator.

(2) Shall consider the costs to the Forest Service to undertake reclamation or restoration actions in case of operator default.

(c) *Determining level of bond amount.* If additional bonding is determined necessary, the authorized Forest Service officer may specify a bond amount to any level, provided that the amount does not exceed the total estimated cost of reclamation based on surface disturbance.

(d) *Posting bonds.* If the authorized Forest Service officer determines that additional bonding is necessary, the officer shall give the operator the option of either increasing the bond held by the Bureau of Land Management or filing a separate reclamation bond with the Forest Service in the amount deemed adequate. The Forest Service must notify the Bureau of Land Management if the operator chooses to increase its Bureau of Land Management bond. If an additional surface use bond is determined to be necessary, the bond must be posted prior to commencing any surface-disturbing activities.

(e) *Bond release.* When the Forest Service holds a bond, the operator may request that the Forest Service authorize an incremental reduction in bond amount at any time during operations as restoration or reclamation activities are completed. When the Bureau of Land Management holds the bond, an operator may request the authorized Forest Service officer to notify the Bureau of Land Management to reduce the bond amount. The authorized Forest Service officer shall, if appropriate, notify the Bureau of Land Management of the amount by which the bond may be reduced.

§ 228.110 Temporary cessation of operations.

(a) *General.* As soon as it becomes apparent that there will be a temporary cessation of operations for a period of 45 days or more, the operator must verbally notify and subsequently file a written statement with the authorized Forest Service officer verifying the operator's intent to maintain structures, facilities, improvements, and equipment that will remain on the area of operation during the cessation of operations, and specifying the expected date by which operations will be resumed.

(b) *Interim measures.* The authorized Forest Service officer shall require, as necessary, the operator to take reasonable interim reclamation or erosion control measures to protect surface resources during temporary cessation of operations, including during cessation of operations resulting from adverse weather conditions.

(c) *Notice of operations.* The operator shall notify the authorized Forest Service officer at least 48 hours prior to resuming operations following a temporary cessation of 45 days or more.

§ 228.111 Compliance and inspection.

(a) *General.* Operations must be conducted in accordance with this subpart, the applicable lease (including stipulations made part of the lease at the direction of the Forest Service), an approved surface use plan of operations, applicable Bureau of Land Management regulations at 43 CFR part 3170, and applicable Notices to Lessees and Operators (§ 228.102).

(b) *Inspection of operations.* The Forest Service shall periodically inspect the area of operations to determine and document whether operations are being conducted in compliance with the requirements in paragraph (a) of this section.

(c) *Inspection of reclamation.* The Forest Service shall inspect sites for reclamation compliance when a Final Abandonment Notice is submitted. The Forest Service shall ensure that reclamation meets the requirements of the approved surface use plan of operations and § 228.105. The Forest Service shall promptly notify the Bureau of Land Management in writing when reclamation is satisfactory.

(d) *Penalties.* If surface-disturbing operations are being conducted that are not authorized by an approved surface use plan of operations, or that violate a term or operating condition of an approved surface use plan of operations, the entity conducting those operations is subject to the applicable prohibitions and penalties under 36 CFR part 261 (see also § 228.112).

§ 228.112 Notice of noncompliance.

(a) *General.* When an authorized Forest Service officer finds that operations are not being conducted in accordance with regulations of this subpart, the lease (including stipulations made part of the lease at the direction of the Forest Service), an approved surface use plan of operations, applicable Bureau of Land Management regulations at 43 CFR part 3170, and applicable Notices to Lessees and Operators, the operator shall be notified and given opportunity to come into compliance according to paragraph (b) of this section. The Forest Service shall provide courtesy copies to the local Bureau of Land Management office when a written notice of noncompliance is sent to an operator.

(b) *Notice of noncompliance.* Upon finding that an operator is in noncompliance, the authorized Forest

Service officer shall send the operator written notification by certified mail that:

(1) Describes the requirement(s) with which the operator is in noncompliance;

(2) Describes the measure(s) that are required to correct the noncompliance;

(3) Specifies a reasonable period of time within which the noncompliance(s) must be corrected;

(4) Describes the possible consequences of continued noncompliance as described in paragraph (e) of this section; and

(5) Provides notification that the authorized Forest Service officer is willing to work cooperatively with the operator to resolve the noncompliance.

(c) *Extension of deadlines.* The operator may request an extension of a deadline specified in a notice of noncompliance if the operator is unable to come into compliance by the deadline. The operator must provide written rationale for delaying compliance. The authorized Forest Service officer has sole discretion to extend compliance deadlines, subject to provisions for appeal as noted in paragraph (d) of this section.

(d) *Appeal.* An operator may appeal a notice of noncompliance issued under paragraph (b) of this section or a denial of a request for extension under paragraph (c) of this section, as provided for in 36 CFR part 214.

(e) *Continued noncompliance.* If an operator fails or refuses to comply with a notice of noncompliance, the authorized Forest Service officer may take action in one or more of the following ways:

(1) Refer the issue to the local Bureau of Land Management office for action under 43 CFR part 3163.

(2) Refer the issue to a Forest Service law enforcement officer if the noncompliance also constitutes a violation of the prohibitions in 36 CFR part 261.

(3) Refer the issue to the Compliance Officer for a determination of material noncompliance per § 228.113.

(f) *Shut down of operations.* When the noncompliance is likely to result in danger to public health or safety or in irreparable resource damage, the authorized Forest Service officer shall, in coordination with the Bureau of Land Management, shut down the operations, in whole or in part.

(1) The authorized Forest Service officer shall serve decisions shutting down operations upon the operator in person, by certified mail, electronic mail or by telephone. If notice is initially provided in person, by electronic mail, or by telephone, the authorized Forest Service officer shall send the operator written confirmation of the decision by certified mail.

(2) Shut down of operations shall remain in effect until the authorized Forest Service officer determines that the operations are in compliance with the applicable requirement(s) identified in the notice of noncompliance.

(g) *Abatement of emergencies.* When the noncompliance is resulting in an emergency, the authorized Forest Service officer may take action as necessary to abate the emergency. The total cost to the Forest Service of taking actions to abate an emergency becomes an obligation of the operator.

(1) Emergency situations include, but are not limited to, imminent dangers to public health or safety or irreparable resource damage.

(2) The authorized Forest Service officer shall promptly serve a bill for such costs upon the operator by certified mail.

§ 228.113 Material noncompliance.

(a) *General.* The authorized Forest Service officer shall refer actions to the Compliance Officer for a determination of material noncompliance when the operator or lessee has failed or refused to:

(1) Comply with necessary corrective actions directed according to the procedures in § 228.112 in cases where the noncompliance resulted in danger to public health or safety; caused irreparable resource damage; or resulted in an emergency;

(2) Complete reclamation;

(3) Maintain an additional bond in the amount required by the authorized Forest Service officer during the period of operation; and

(4) Reimburse the Forest Service in a timely manner for the cost of abating an emergency.

(b) *Compliance Officer determination of material noncompliance.* When determining whether an operator or lessee has failed or refused to comply in a material respect with reclamation requirements or other requirements or standards identified in paragraph (a) of this section, the Compliance Officer shall:

(1) Inform the operator or lessee by certified mail of the authorized Forest Service officer's material noncompliance referral and the Compliance Officer's intent to proceed with a material noncompliance review.

(2) Inform the operator or lessee of the opportunity to submit a written response to the referral and/or to request an oral presentation with the Compliance Officer within 30 calendar days of receipt of the certified letter.

(3) Ensure that:

(i) Opportunities for corrective action according to § 228.112(b) have been pursued;

(ii) Consideration is given to the status of any noncompliance referrals sent to the Bureau of Land Management for action per § 228.112(e); and

(iii) Consideration is given to the seriousness of the effects caused by the operator's failure or refusal to comply.

(4) Consider any pending judicial or administrative appeals involving the operator, including those within the purview of the Bureau of Land Management.

(5) Notify the operator or lessee by certified mail of the outcome of the material noncompliance referral review. If material noncompliance was determined, the notice shall inform the operator that the Bureau of Land Management may not issue a lease or approve the assignment of any lease to the entity. The notification shall also state that the decision is the final administrative determination of the Department of Agriculture.

(c) *Notifying the Bureau of Land Management.* Upon completion of a material noncompliance review, the Compliance Officer shall notify the Bureau of Land Management in writing of the outcome of the review.

(d) *Notification that material compliance has occurred.* If an entity found to be in material noncompliance subsequently comes into material compliance with reclamation requirements or other requirements or standards identified in paragraph (a) of this section, the Compliance Officer shall advise the Bureau of Land Management that the entity has come into material compliance.

§ 228.114 Posting requirements.

The affected National Forest or Grassland ranger district office shall promptly post notices provided by the Bureau of Land Management of:

(a) Competitive lease sales which the Bureau of Land Management plans to conduct that include National Forest System lands. These must be posted for a minimum of 45 days prior to the sale;

(b) Substantial modifications in the terms which the Bureau of Land Management proposes to make for leases on National Forest System lands (43 CFR 3101.14). These must be posted for a minimum of 30 days; and,

(c) Applications for Permits to Drill, which the Bureau of Land Management has received involving leases or agreements located on National Forest System lands according to provisions of 43 CFR part 3170, subpart 3171. These must be posted for a minimum of 30 days.

§ 228.115 Information collection requirements.

The Office of Management and Budget (OMB) reviewed and approved the information collection requirements contained in this subpart and assigned OMB Control No. 0596–0101. The collection of information allows the Forest Service to approve or take other appropriate actions on surface use plans of operations; requests to waive, except, or modify lease stipulations; requests for reduction in reclamation liability; noncompliance issues; and notices of cessation of operations. The information collection requirements of this subpart are supplemental to the Bureau of Land Management's various Office of Management and Budget information collection approvals for issuing and managing Federal oil and gas leases, but primarily to the following: OMB Control No. 1004–0134 for 43 CFR 3162.3; and OMB Control No. 1004–0136 for Form 3160–3, Application for Permit to Drill.

PART 261—PROHIBITIONS

■ 5. The authority citation for part 261 continues to read as follows:

Authority: 7 U.S.C. 1011(f); 16 U.S.C. 460l–6d, 472, 551, 620(f), 1133(c)–(d)(1), 1246(i).

■ 6. Amend § 261.2 by revising the definition for ''Operating plan'' to read as follows:

§ 261.2 Definitions.

* * * * *

Operating plan means the following documents, providing that the document has been issued or approved by the Forest Service: A plan of operations as provided for in 36 CFR part 228, subparts A and D, and 36 CFR part 292, subparts C and G; a supplemental plan of operations as provided for in 36 CFR part 228, subpart A, and 36 CFR part 292, subpart G; an operating plan as provided for in 36 CFR part 228, subpart C, and 36 CFR part 292, subpart G; an amended operating plan and a reclamation plan as provided for in 36 CFR part 292, subpart G; a surface use plan of operations as provided for in 36 CFR part 228, subpart E; a surface use portion of a sundry notice as provided for in 36 CFR part 228, subpart E; a permit as provided for in 36 CFR 251.15; and an operating plan and a letter of authorization as provided for in 36 CFR part 292, subpart D.

* * * * *

Courtney Stevens,

Acting Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 2026–01655 Filed 1–27–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 102

RIN 0991–AC38

Annual Civil Monetary Penalties Inflation Adjustment

AGENCY: Office of the Assistant Secretary for Financial Resources, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) is updating its regulations to reflect required annual inflation-related increases to the civil monetary penalty (CMP) amounts in its statutes and regulations, under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES:

Effective date: This final rule is effective upon publication to the **Federal Register**.

Applicability date: The adjusted civil monetary penalty amounts apply to penalties assessed on or after the date of publication to the **Federal Register**, if the violation occurred on or after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Jennifer Johnson, Acting, Deputy Assistant Secretary, Office of Acquisitions, Office of the Assistant Secretary for Financial Resources, Room 536–H, Hubert Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201; (771) 215–0133.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (section 701 of Pub. L. 114–74) (the ''2015 Act'') amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890 (1990)), which is intended to improve the effectiveness of CMPs and to maintain the deterrent effect of such penalties, requires agencies to adjust the CMPs for inflation annually.

HHS lists the CMP authorities and the amounts administered by all of its agencies in tabular form in 45 CFR 102.3, which was issued in an interim final rule published in the September 6, 2016, **Federal Register** (81 FR 61538). Annual adjustments were subsequently published on February 3, 2017 (82 FR 9175), October 11, 2018 (83 FR 51369), November 5, 2019 (84 FR 59549), January 17, 2020 (85 FR 2869), November 15, 2021 (86 FR 62928), March 17, 2022 (87 FR 15100), October 6, 2023 (88 FR 69531), and August 8, 2024 (89 FR 64815).

II. Calculation of Annual Inflation Adjustment and Other Updates

The annual inflation adjustment for each applicable CMP is determined using the percent increase in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October of the year in which the amount of each CMP was most recently established or modified. In the December 17, 2024, Office of Management and Budget (OMB) Memorandum for the Heads of Executive Departments and Agencies, M–25–02, ''Implementation of Penalty Inflation Adjustments for 2025, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,'' OMB published the multiplier for the required annual adjustment. The cost-of-living adjustment multiplier for 2025, based on the CPI–U for the month of October 2024, not seasonally adjusted, is 1.02598. The multiplier is applied to each applicable penalty amount that was updated and published for fiscal year (FY) 2024 and is rounded to the nearest dollar.

In addition to the inflation adjustments for 2025, this final rule corrects several technical errors and updates descriptions for clarification and accuracy. The following non-substantive technical errors were identified and are corrected and following descriptions are updated in the table in 45 CFR 102.3:

- The description of 42 U.S.C. 1320a–7j(h)(3)(A) is revised to add the word ''Maximum'' to accurately reflect the statutory maximum penalty amount.
- The regulatory cite associated with ''Penalty against hospital identified by CMS as noncompliant according to § 182.50 with respect to price transparency requirements regarding diagnostic tests for COVID–19'' was corrected from 45 CFR 180.90 to 45 CFR 182.70.
- The 2024 maximum penalty associated with 45 CFR 180.90(c)(2)(ii)(C) was revised as it was cited incorrectly as $3,021 but should have been $6,118 in the last adjustment. In the 2024 adjustment, the amount reflected in the 2023 Maximum Adjusted Penalty column should have been $5,926, which was the actual adjusted amount in 2023 (see 88 FR at 69541). However, this amount was inadvertently mistyped as $2,926 in the last adjustment (see 89 FR at 64823). Applying the 2024 multiplier to the correct amount would have resulted in