

those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than *property* governed by the Federal Property and Administrative Services Act (40 U.S.C. 472), from one department, bureau or agency to another department, bureau or agency.

(i) *Department* means a unit of the Executive branch of the Federal Government which is headed by a member of the President's Cabinet.

(j) *Agency* means a unit of the Executive branch of the Federal Government which is not within a Department.

(k) *Office* means an office or bureau of the Department of the Interior.

(l) *Applicant* means any Federal department, agency or office.

(m) *Segregation* means the removal for a limited period, subject to valid existing rights, of a specified area of the public lands from the operation of the public land laws, including the mining laws, pursuant to the exercise by the Secretary of regulatory authority to allow for the orderly administration of the public lands.

(n) *Legal description* means a written land description based upon either an approved and filed Federal land survey executed as a part of the United States Public Land Survey System or, where specifically authorized under Federal law, upon a protraction diagram. In the absence of the foregoing, the term means a written description, approved by the authorized officer, which defines the exterior boundaries of a tract of land by reference to a metes and bounds survey or natural or other monuments.

(o) *Modify* or *modification* does not include, for the purposes of section 204 of the Act (43 U.S.C. 1714), the addition of lands to an existing withdrawal or the partial revocation of a withdrawal.

(p) *Withdrawal petition* means a request, originated within the Department of the Interior and submitted to the Secretary, to file an application for withdrawal.

(q) *Withdrawal proposal* means a withdrawal petition approved by the Secretary.

Subpart 2310—Withdrawals, General: Procedure

§ 2310.1 Procedures: General.

(a) The basic steps leading up to the making, modification or extension of a withdrawal, except emergency withdrawals, are:

- (1) Preapplication consultation;
- (2) Obtaining Secretarial approval of a withdrawal petition in appropriate cases;
- (3) Submission for filing of an application for a requested withdrawal action;
- (4) Publication in the FEDERAL REGISTER of a notice stating that a withdrawal proposal has been made or that an application has been submitted for filing.
- (5) Negotiations between the applicant and the authorized officer as well as the accomplishment of investigations, studies and analyses which may be required to process an application.
- (6) Preparation of the case file to be considered by the Secretary, including the authorized officer's findings and recommendations;
- (7) Transmittal of the case file to the Director, Bureau of Land Management, for the Director's review and decision regarding the findings and recommendations of the authorized officer;
- (8) Transmittal of the case file to the Secretary.
- (9) Publication of a public land order or a notice of denial signed by the Secretary. If the application seeks a national defense withdrawal that may only be made by an Act of Congress, the Secretary will transmit to the Congress proposed legislation along with the Secretary's recommendations, and documentation relating thereto.

§ 2310.1-1 Preapplication consultation.

A potential applicant should contact the appropriate State office of the Bureau of Land Management well in advance of the anticipated submission date of an application. Early consultation can familiarize the potential applicant with the responsibilities of an applicant, the authorized officer and the Secretary. Early consultation also will assist in determining the need for

§ 2310.1-2

a withdrawal, taking possible alternatives into account, increase the likelihood that the applicant's needs will be considered in ongoing land use planning, assist in determining the extent to which any public lands that may be involved would have to be segregated if an application is submitted; and result in preliminary determinations regarding the scheduling of various investigations, studies, analyses, public meetings and negotiations that may be required for a withdrawal. Studies and analyses should be programmed to ensure their completion in sufficient time to allow the Secretary or the Congress adequate time to act on the application before the expiration of the segregation period.

§ 2310.1-2 Submission of applications.

(a) Applications for the making, modification or extension of a withdrawal shall be submitted for filing, in duplicate, in the proper Bureau of Land Management office, as set forth in § 1821.2-1 of this title, except for emergency withdrawal requests and applications that are classified for national security reasons. Requests for emergency withdrawals and applications that are classified for national security reasons shall be submitted, in duplicate, in the Office of the Secretary, Department of the Interior, Washington, D.C. 20240.

(b) Before the authorized officer can take action on a withdrawal proposal, a withdrawal application in support thereof shall be submitted. The application may be submitted simultaneously with the making of a withdrawal proposal, in which case only the notice required by § 2310.3-1(a) of this title, referencing both the application and the withdrawal proposal, shall be published.

(c) No specific form is required, but, except as otherwise provided in § 2310.3-6(b) of this title, the application shall contain at least the following information:

(1) The name and address of the applicant. Where the organization intending to use the lands is different from the applicant, the name and address of such using agency shall also be included.

(2) If the applicant is a department or agency other than the Department of

43 CFR Ch. II (10-1-02 Edition)

the Interior or an office thereof, a statement of the delegation or delegations of authority of the official acting on behalf of the department or agency submitting the application, substantiating that the official is empowered to act on behalf of the head of the department or agency in connection with all matters pertaining to the application.

(3) If the lands which are subject to an application are wholly or partially under the administration of any department or agency other than the Department of the Interior, the Secretary shall make or modify a withdrawal only with the consent of the head of the department or agency concerned, except in the case of an emergency withdrawal. In such case, a copy of the written consent shall accompany the application. The requirements of section (e) of E.O. 10355 (17 FR 4831), shall be complied with in those instances where the Order applies.

(4) The type of withdrawal action that is being requested (See § 2300.0-5(h) of this title) and whether the application pertains to the making, extension or modification of a withdrawal.

(5) A description of the lands involved in the application, which shall consist of the following:

(i) A legal description of the entire land area that falls within the exterior boundaries of the affected area and the total acreage of such lands;

(ii) A legal description of the lands, Federal or otherwise, within the exterior boundaries that are to be excepted from the requested action, and after deducting the total acreage of all the excepted lands, the net remaining acreage of all Federal lands (as well as all non-Federal lands which, if they should be returned to or should pass to Federal ownership, would become subject to the withdrawal) within the exterior boundaries of the affected land areas;

(iii) In the case of a national defense withdrawal which can only be made by an Act of Congress, sections 3(2) and 3(3) of the Act of February 28, 1958 (43 U.S.C. 157 (2), (3)) shall be complied with in lieu of paragraphs (c)(5) (i) and (ii) of this section.

(6) If the application is for a withdrawal that would overlap, or that