

## Bureau of Land Management, Interior

## § 2310.5

(3) For not more than 5 years to preserve the lands for a specific use then under consideration by either House of Congress.

(c) An order withdrawing lands on the basis of an emergency as provided for in section 204(e) of the Act (43 U.S.C. 1714(e)) may be made for not more than 3 years.

(d) Except for emergency withdrawals, withdrawals of specific duration may be extended, as provided for in § 2310.4 of this title.

### § 2310.3-5 Compensation for improvements.

(a) When an application is allowed, the applicant shall compensate the holder of record of each permit, license or lease lawfully terminated or revoked after the allowance of an application, for all authorized improvements placed on the lands under the terms and conditions of the permit, license or lease, before the lands were segregated or withdrawn. The amount of such compensation shall be determined by an appraisal as of the date of revocation or termination of the permit, license or lease, but shall not exceed fair market value. To the extent such improvements were constructed with Federal funds, they shall not be compensable unless the United States has been reimbursed for such funds prior to the allowance of the application and then only to the extent of the sum that the United States has received.

(b) When an application is allowed that affects public lands which are subject to permits or leases for the grazing of domestic livestock and that is required to be terminated, the applicant shall comply with the cancellation notice and compensation requirements of section 402(g) of the Act (43 U.S.C. 1752(g)), to the extent applicable.

### § 2310.3-6 Transfer of jurisdiction.

A public land order that reserves lands for a department, agency or office, shall specify the extent to which jurisdiction over the lands and their related resource uses will be exercised by that department, agency or office. (See § 2310.3-2(c) of this title).

### § 2310.4 Review and extensions of withdrawals.

(a) Discretionary withdrawals of specific duration, whether made prior to or after October 21, 1976, shall be reviewed by the Secretary commencing at least 2 years before the expiration date of the withdrawal. When requested, the department, agency or office benefitting from the withdrawal shall promptly provide the Secretary with the information required by § 2310.1-2(c) of this title, and the information required by § 2310.3-2(b) of this title, in the form of a withdrawal extension application with supplemental information. If the concerned department, agency or office is delinquent in responding to such request, the delinquency shall constitute a ground for not extending the withdrawal. Such withdrawals may be extended or further extended only upon compliance with these regulations, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period that shall not exceed the duration of the original withdrawal period. In allowing an extension, the Secretary shall comply with the provisions of section 204(c) of the Act (43 U.S.C. 1714(c)), or section 204(d) of the Act (43 U.S.C. 1714(d)), whichever is applicable; and, whether or not an extension is allowed, the Secretary shall report promptly on the decision for each pending extension to the Congressional Committees that are specified in section 204(f) of the Act (43 U.S.C. 1714(f)).

(b) Notwithstanding the provisions of this section, if the Secretary determines that a National Wildlife Refuge System withdrawal of specific duration shall not be extended, the Secretary shall nevertheless extend or reextend the withdrawal until such time as the withdrawal is terminated by an Act of Congress.

### § 2310.5 Special action on emergency withdrawals.

(a) When the Secretary determines, or when either one of the two Committees of the Congress that are specified in section 204(e) of the Act (43 U.S.C. 1714(e)) notifies the Secretary, that an emergency exists and that extraordinary measures need to be taken to

**§ 2320.0-3**

protect natural resources or resource values that otherwise would be lost, the Secretary shall immediately make a withdrawal which shall be limited in its scope and duration to the emergency. An emergency withdrawal shall be effective when signed, shall not exceed 3 years in duration and may not be extended by the Secretary. If it is determined that the lands involved in an emergency withdrawal should continue to be withdrawn, a withdrawal application should be submitted to the Bureau of Land Management in keeping with the normal procedures for processing a withdrawal as provided for in this subpart. Such applications will be subject to the provisions of section 204(c) of the Act (43 U.S.C. 1714(c)), or section 204(d) of the Act (43 U.S.C. 1714(d)), whichever is applicable, as well as section 204(b)(1) of the Act (43 U.S.C. 1714(b)(1)).

(b) When an emergency withdrawal is signed, the Secretary shall on the same day, send a notice of the withdrawal to the two Committees of the Congress that are specified for that purpose in section 204(e) of the Act (43 U.S.C. 1714(e)).

(c) The Secretary shall forward a report to each of the aforementioned committees within 90 days after filing with them the notice of emergency withdrawal. Reports for all such withdrawals, regardless of the amount of acreage withdrawn, shall contain the information specified in section 204(c)(2) of the Act (43 U.S.C. 1714(c)(2)).

**Subpart 2320—Federal Energy Regulatory Commission Withdrawals**

**§ 2320.0-3 Authority.**

(a) Section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 818), provides that any lands of the United States included in an application for power development under that Act shall, from the date of filing of an application therefor, be reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Federal Energy Regulatory Commission or by Congress. This statute also provides that whenever the Commission shall determine that the value of any lands

**43 CFR Ch. II (10-1-04 Edition)**

of the United States withdrawn or classified for power purposes shall not be injured or destroyed for such purposes by location, entry or selection under the public land laws, the Secretary of the Interior shall declare such lands open to location, entry or selection for such purposes under such restrictions as the Commission may determine are necessary, and subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy and use any and all of the lands for power purposes. Before any lands are declared open to location, entry or selection, the Secretary shall give notice of his intention to make this declaration to the Governor of the State within which such lands are located, and the State shall have a preference for a period of 90 days from the date of this notice to file under any applicable law or regulation an application of the State, or any political subdivision thereof, for any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways. The 90-day preference does not apply to lands which remain withdrawn for national forest or other purposes.

(b) The Mining Claims Rights Restoration Act of 1955 (30 U.S.C. 621 *et seq.*), opened public lands which were then, or thereafter, withdrawn or classified for power purposes, with specified exceptions, to mineral location and development under certain circumstances.

**§ 2320.1 Lands considered withdrawn or classified for power purposes.**

The following classes of lands of the United States are considered as withdrawn or classified for the purposes of section 24 of the Federal Power Act (16 U.S.C. 818): Lands withdrawn for powersite reserves under sections 1 and 2 of the Act of June 25, 1910, as amended (43 U.S.C. 141-148); lands included in an application for power development under the Federal Power Act (16 U.S.C. 818); lands classified for powersite purposes under the Act of March 3, 1879 (43 U.S.C. 31); lands designated as valuable for power purposes under the Act of June 25, 1910, as amended (43 U.S.C. 148); the Act of June 9, 1916 (39 Stat.