

§ 2400.0-3 Authority.

(a) All vacant public lands, except those in Alaska, have been, with certain exceptions, withdrawn from entry, selection, and location under the non-mineral land laws by Executive Order 6910, of November 26, 1934, and Executive Order 6964 of February 5, 1935, and amendments thereto, and by the establishment of grazing districts under section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315). Section 7 of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315f), authorizes the Secretary of the Interior in his discretion to examine and classify and open to entry, selection, or location under applicable law any lands withdrawn or reserved by Executive Order 6910 of November 26, 1934, or Executive Order 6964 of February 5, 1935, and amendments thereto, or within a grazing district established under that act which he finds are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than for the use provided for under said act, or proper for acquisition in satisfaction of any outstanding lieu, exchange, or scrip rights or land grant. Classification under section 7 is a prerequisite to the approval of all entries, selections, or locations under the following subparts of this chapter, except as they apply to Alaska and with certain other exceptions: Original, Additional, Second, and Adjoining Farm Homesteads—subparts 2511, 2512, and 2513; Enlarged Homestead—subpart 2514; Indian Allotments—part 2530; Desert Land Entries—part 2520; Recreation and Public Purposes Act—part 2740 and subpart 2912; State Grants for Educational, Institutional, and Park Purposes—part 2620; Scrip Selections—part 2610 and Exchanges for the Consolidation or Extension of National Forests, Indian Reservations or Indian Holdings—Group 2200.

(b) Section 8(b) of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315g), authorizes the Secretary of the Interior, when public interests will be benefited thereby, to accept on behalf of the United States title to any privately owned lands within or without the boundaries of a grazing district

established under that act and in exchange therefor to issue patent for not to exceed an equal value of surveyed grazing district land or of unreserved surveyed public land in the same State or within a distance of not more than 50 miles within the adjoining State nearest the base lands. The regulations governing such exchanges are contained in Group 2200 of this chapter.

(c) Section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), authorizes the Secretary of the Interior in his discretion to order into market and sell at public auction isolated or disconnected tracts of public land not exceeding 1,520 acres, and tracts not exceeding 760 acres the greater part of which are mountainous or too rough for cultivation. The regulations governing such sales are contained in part 2710 of this chapter.

(d) Section 3 of the Act of August 28, 1937 (50 Stat. 875, 43 U.S.C. 1181c), authorizes the Secretary of the Interior to classify, either on application or otherwise, and restore to homestead entry, or purchase under the provisions of section 2455 of the Revised Statutes, as amended, any of the reverted Oregon and California Railroad or reconveyed Coos Bay Wagon Road grant land which, in his judgment, is more suitable for agricultural use than for afforestation, reforestation, stream-flow protection, recreation, or other public purposes. The regulations governing disposal under this act are contained in part 2710 of this chapter.

(e) The Small Tract Act of June 1, 1938 (52 Stat. 609), as amended (43 U.S.C. 682a-e), authorizes the Secretary of the Interior, in his discretion, to lease or sell certain classes of public lands which he classifies as chiefly valuable for residence, recreation, business or community site purposes. The regulations governing leases and sales under this act are contained in part 2730 and subpart 2913 of this chapter.

(f) The Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741), as amended (43 U.S.C. 869-869-4), requires the Secretary of the Interior, in the exercise of his discretion to make a determination that land is to be used for an established or definitely proposed project, and in the case of Alaska authorizes him to classify certain

§ 2400.0-4

classes of public lands for lease or sale for recreation or other public purposes. The regulations governing lease and sale of land under this act are contained in part 2740 and subpart 2912 of this chapter.

(g) The Act of July 31, 1939 (53 Stat. 1144), authorizes and empowers the Secretary of the Interior, in the administration of the Act of August 28, 1937 (*supra*), in his discretion, to exchange any land formerly granted to the Oregon & California Railroad Co., title to which was vested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218), and any land granted to the State of Oregon, title to which was reconveyed to the United States by the Southern Oregon Co. pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), for lands of approximately equal aggregate value held in private, State, or county ownership, either within or contiguous to the former limits of such grants, when by such action the Secretary of the Interior will be enabled to consolidate advantageously the holdings of lands of the United States. The regulations governing exchanges under this act are contained in part 2260 of this chapter.

(h) The Alaska Public Sales Act of August 30, 1949 (63 Stat. 679), as amended (48 U.S.C. 364a-f), authorizes the Secretary of the Interior in his discretion to classify certain classes of public lands in Alaska for public sale for industrial or commercial purposes. The regulations governing sales of land under this act are contained in part 2770 of this chapter.

(i) The Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-27), authorizes and directs the Secretary of the Interior to sell public lands in tracts not exceeding 5,120 acres, that have been classified for sale in accordance with a determination that (1) the lands are required for the orderly growth and development of a community or (2) the lands are chiefly valuable for residential, commercial, agricultural (which does not include lands chiefly valuable for grazing or raising forage crops), industrial, or public uses or development. The regulations governing such sales are contained in part 2720 of this chapter.

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

(j) The Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1411-18), authorizes the Secretary of the Interior to determine which of the public lands (and other Federal lands), including those situated in the State of Alaska exclusively administered by him through the Bureau of Land Management shall be (1) sold because they are (i) required for the orderly growth and development of a community or (ii) are chiefly valuable for residential, commercial, agricultural (which does not include lands chiefly valuable for grazing or raising forage crops), industrial, or public uses or development or (2) retained, at least for the time being, in Federal ownership and managed for (i) domestic livestock grazing, (ii) fish and wildlife development and utilization, (iii) industrial development, (iv) mineral production, (v) occupancy, (vi) outdoor recreation, (vii) timber production, (viii) watershed protection, (ix) wilderness preservation, or (x) preservation of public values that would be lost if the land passed from Federal ownership.

§ 2400.0-4 Responsibility.

(a) Except where specified to the contrary in this group, the authority of the Secretary of the Interior to classify lands and make other determinations in accordance with the regulations of this part has been delegated to persons authorized to act in his name; to the Director, Bureau of Land Management and persons authorized to act in his name; to State Directors of the Bureau of Land Management and to any person authorized to act in the name of a State Director.

(b) Classifications and other determinations in accordance with the regulations of this group may be made by the authorized officer whether or not applications or petitions have been filed for the lands.

§ 2400.0-5 Definitions.

As used in the regulations of this group—

(a) *Residential* refers to single or multi-family dwellings or combinations thereof, and related community facilities, both seasonal and year-round.