

will comply with the provisions of Executive Orders 11988 and 11990 of May 24, 1977 (42 FR 26951; 26961).

(5) A statement of the consultation which has been or will be conducted with other Federal departments or agencies; with regional, State and local Government bodies; and with individuals and nongovernmental groups regarding the requested action.

(c) Prior to final action being taken in connection with an application, the applicant shall prepare, with the guidance and participation of the authorized officer, and subject to the approval of the authorized officer, the Secretary and other affected departments, agencies or offices, a resource management plan and implementation program regarding the use and management of any public lands with their related resources uses. Consideration shall be given to the impact of the proposed reservation on access to and the use of the land areas that are located in the vicinity of the lands proposed to be withdrawn. Where appropriate, the plan and program will be implemented by means of a memorandum of understanding between the affected agencies. Any allocation of jurisdiction between the agencies shall be effected in the public land order or legislation. In those cases where the Secretary, acting through the Bureau of Land Management, would continue to exercise partial jurisdiction, resource management of withdrawn areas may be governed by the issuance of management decisions by the Bureau of Land Management to implement land use plans developed or revised under the land use planning requirements of section 202 of the Act (43 U.S.C. 1712).

(d) In regard to national defense withdrawals that can only be made by an Act of Congress, and to the extent that they are not otherwise satisfied by the information, studies, analyses and reports provided in accordance with the provisions of this section, the provisions of section 3(7) of the Act of February 28, 1958 (43 U.S.C. 157(7)), shall be complied with.

(e) The authorized officer shall develop preliminary findings and recommendations to be submitted to the Secretary, advise the applicant of the findings and recommendations, and

provide the applicant an opportunity to discuss any objections thereto which the applicant may have.

(f) Following the discussion process, or in the absence thereof, the authorized officer shall prepare the findings, keyed specifically to the relevant portions of the case file, and the recommendations to the Secretary in connection with the application. The authorized officer also shall prepare, for consideration by the Secretary, a proposed order or notice of denial. In the case of a national defense withdrawal which can only be made by an Act of Congress, the authorized officer shall prepare, with the cooperation of the applicant, a draft legislative proposal to implement the applicant's withdrawal request, together with proposed recommendations for submission by the Secretary to the Congress. The findings and recommendations of the authorized officer, and the other documents previously specified in this section to be prepared by the authorized officer shall be made a part of the case file. The case file shall then be sent to the Director, Bureau of Land Management. At the same time, a copy of the findings and recommendations of the authorized officer shall be sent to the applicant.

(1) If the applicant objects to the authorized officer's findings and recommendations to the Secretary, the applicant may, within 30 days of the receipt by the applicant of notification thereof, state its objections in writing and request the Director to review the authorized officer's findings and recommendations. The applicant shall be advised of the Director's decision within 30 days of receipt of the applicant's statement of objections in the Bureau of Land Management's Washington office. The applicant's statement of objections and the Director's decision shall be made a part of the case file and thereafter the case file shall be submitted to the Secretary.

(2) If the applicant disagrees with the decision of the Director, Bureau of Land Management, the applicant may, within 30 days of receipt by the applicant of the Director's decision, submit to the Secretary a statement of reasons for disagreement. The statement shall be considered by the Secretary

Bureau of Land Management, Interior

§ 2310.3-4

together with the findings and recommendations of the authorized officer, the applicant's statement of objections, the decision of the Director, the balance of the case file and such additional information as the Secretary may request.

§ 2310.3-3 Action by the Secretary: Public land orders and notices of denial.

(a) Except for national defense withdrawals which can only be made by an Act of Congress, and except as may be otherwise provided in section 1(d) of Executive Order 10355 (17 FR 4833), for applications that are subject to that order, the allowance or denial, in whole or in part, of a withdrawal, modification or extension application, may only be made by the Secretary.

(b)(1) Before the allowance of an application, in whole or in part, the Secretary shall first approve all applicable memoranda of understanding and the applicant shall make all certifications required in this part. When an application has been finally allowed, in whole or in part, by the Secretary, an order to that effect shall be published promptly in the FEDERAL REGISTER. Each order shall be designated as, and shall be signed by the Secretary and issued in the form of, a *public land order*. Water shall be reserved pursuant to Federal law for use in carrying out the purposes of the withdrawal only if specifically so stated in the relevant public land order. In appropriate cases, the public land order also shall refer to the memorandum of understanding discussed in § 2310.3-2(c) of this title and shall be drawn to comply with § 2310.3-6 of this title.

(2) On the same day an order withdrawing 5,000 or more acres in the aggregate is signed, the Secretary shall advise, in writing, each House of the Congress, or in the case of an emergency withdrawal, the appropriate Committee of each House, of the withdrawal action taken. Pursuant to the Secretary's authority under the act, the notices that are sent to the Congress shall be accompanied by the information required by section 204(c)(2) of the Act (43 U.S.C. 1714(c)(2)), except in the case of an emergency withdrawal, transmittal of the required in-

formation may be delayed as provided in § 2310.5(c) of this title.

(c) When the action sought in an application involves the exercise by the Secretary of authority delegated by Executive Order 10355 (17 FR 4831) and the Secretary denies the application in whole or in part, the applicant shall be notified of the reasons for the Secretary's decision. The decision shall be subject to further consideration only if the applicant informs the Secretary, in writing, within 15 days of the receipt by the applicant of the Secretary's decision, that the applicant has submitted the matter to the Office of Management and Budget for consideration and adjustment, as provided for in section 1(d) of the Executive Order.

(d) A withdrawal application shall be denied, if, in the opinion of the Secretary, the applicant is attempting to circumvent the Congressional review provisions of section 204(c)(1) of the Act (43 U.S.C. 1714(c)(1)) concerning withdrawals of 5,000 or more acres in the aggregate.

(e) When an application is denied in its entirety by the Secretary, a notice to that effect, signed by the Secretary, shall be published promptly in the FEDERAL REGISTER.

(f) In the case of a national defense withdrawal that may only be made by an Act of Congress, the Secretary shall transmit to the Congress proposed legislation effecting the withdrawal requested, together with the recommendations of the Secretary which may or may not support the proposed legislation in whole or in part. The proposed legislation shall contain such provisions for continued operation of the public land laws as to the public land areas included in the requested withdrawal as shall be determined by the Secretary to be compatible with the intended military use.

§ 2310.3-4 Duration of withdrawals.

(a) An order initially withdrawing 5,000 or more acres of land in the aggregate, on the basis of the Secretary's authority under section 204 of the Act (43 U.S.C. 1714), may be made for a period not to exceed 20 years from the date the order is signed, except that withdrawals exceeding 5,000 acres in the State of Alaska shall not become