

Bureau of Land Management, Interior

§ 2320.2

amount of acreage withdrawn, will contain the information specified in Section 204(c)(2) of the Act (43 U.S.C. 1714(c)(2)).

[73 FR 74047, Dec. 5, 2008]

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statute also provides that whenever the Commission shall determine that the value of any lands of the United States withdrawn or classified for power purposes shall not be injured or destroyed for such purposes by location, entry or selection under the public land laws, the Secretary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 The 90-day preference does not apply to lands which remain withdrawn for national forest or other purposes.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Claims Rights Restoration Act of 1955 (30 U.S.C. 621 *et seq.*), opened public lands which were then, or thereafter, withdrawn or classified for power purposes, with specified exceptions, to mineral location and development under certain circumstances.

§ 2320.1 Lands considered withdrawn or classified for power purposes.

The following classes of lands of the United States are considered as withdrawn or classified for the purposes of section 24 of the Federal Power Act (16 U.S.C. 818): Lands withdrawn for powersite reserves under sections 1 and 2 of the Act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. 218, 219), and the Act of February 26, 1919 (40 Stat. 1178, 1180); lands within final hydroelectric power permits under the Act of February 15, 1901 (43 U.S.C. 959); and lands within transmission line permits or approved rights-of-way under the aforementioned Act of February 15, 1901, or the Act of March 4, 1911 (43 U.S.C. 961).

§ 2320.2 General determinations under the Federal Power Act.

(a) On April 22, 1922, the Federal Power Commission (as predecessor to the Federal Energy Regulatory Commission) made a general determination “that where lands of the United States have heretofore been or hereafter may be reserved or classified as powersites, such reservation or classification being made solely because such lands are either occupied by power transmission lines or their occupancy and use for such purposes have been applied for or authorized under appropriate laws of the United States, and such lands have otherwise no value for power purposes, and are not occupied in trespass, the Commission determines that the value of such lands so reserved or classified or so applied for or authorized, shall