

section 84 of this title, if any, and if no surplus exists, then out of the appropriation for incidental expenses of district land offices; but no clerk shall be so paid unless his employment has been first sanctioned by the Secretary of the Interior. (R. S. § 2255; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Feb. 18, 1861, ch. 38, § 2, 12 Stat. 131.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out as a note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

Words "by the register" following "to approve the employment" were omitted by 1946 Reorg. Plan No. 3. See note under section 1 of this title.

§ 130. Entry of public lands in States where no land offices exist.

Public lands situated in States in which there are no land offices may be entered at the Bureau of Land Management, subject to the provisions of law touching the entry of public lands; and the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record. And moneys received by the Secretary of the Interior, or such officer as he may designate, for lands entered by cash entry shall be covered into the Treasury. (Mar. 3, 1877, ch. 102, 19 Stat. 315; June 19, 1878, ch. 329, § 1, 20 Stat. 201; 1946 Reorg. Plan No. 38, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out as a note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

"Bureau of Land Management" was substituted for "General Land Office" and "Secretary of the Interior, or such officer as he may designate," for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under section 1 of this title.

Chapter 6.—WITHDRAWAL FROM SETTLEMENT. LOCATION, SALE, OR ENTRY

- Sec.
141. Withdrawal and reservation of lands for water-power sites or other purposes.
 142. Lands withdrawn open to exploration under mining laws; rights of occupants or claimants of oil- or gas-bearing lands; national forests.
 143. Reports of withdrawals to Congress.
 144. Entries on land withdrawn as valuable for oil or gas validated.
 145. Sale of lands withdrawn; notice of.
 146. Patents to purchasers of lands withdrawn.
 147. Disposition of proceeds of sale of withdrawn lands.
 148. Withdrawal of lands in Indian reservations for power or reservoir sites.
 149. Exchange of private lands included in Indian reservation for other lands.

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150. Withdrawals of land for Indian reservations prohibited.
151. Opening of lands restored to entry after withdrawals.
152. Restoration of lands previously withdrawn.
153. Reservation of lands in North Dakota.
154. Vacation of withdrawals under reclamation law; lands valuable for minerals; reservation of rights, ways, and easements; rules and regulations.
155. Withdrawal, reservation, or restriction of public lands for defense purposes; definition; exception.
156. Same; approval by Congress of over 5,000 acres for any project or facility.
157. Same; applications; specifications.
158. Same; mineral resources.

§ 141. Withdrawal and reservation of lands for water-power sites or other purposes.

The President may, at any time in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States, including Alaska, and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an Act of Congress. (June 25, 1910, ch. 421, § 1, 36 Stat. 847.)

WITHDRAWAL AND RESERVATION OF CERTAIN LANDS

Ex. Ord. No. 9613, Sept. 13, 1945, 10 F. R. 11789, providing for the withdrawal and reservation for use of the United States of lands containing radio-active mineral substances, was revoked by Ex. Ord. No. 9701, Mar. 7, 1946, 11 F. R. 2369, formerly set out as a note under this section.

EX. ORD. NO. 10355. DELEGATION OF AUTHORITY

Ex. Ord. No. 10355, May 26, 1952, 17 F. R. 4831, provided:
SECTION 1. (a) Subject to the provisions of subsections (b), (c), and (d) of this section, I hereby delegate to the Secretary of the Interior the authority vested in the President by section 1 of the act of June 25, 1910, ch. 421, 36 Stat. 847 [this section], and the authority otherwise vested in him to withdraw or reserve lands of the public domain and other lands owned or controlled by the United States in the continental United States or Alaska for public purposes, including the authority to modify or revoke withdrawals and reservations of such lands heretofore or hereafter made.

(b) All orders issued by the Secretary of the Interior under the authority of this order shall be designated as public land orders and shall be submitted to the Division of the Federal Register, General Services Administration, for filing and for publication in the FEDERAL REGISTER.

(c) No order affecting land under the administrative jurisdiction of any executive department or agency of the Government other than the Department of the Interior shall be issued by the Secretary of the Interior under the authority of this order without the prior approval or concurrence, so far as the order affects such land, of the head of the department or agency concerned, or of such officer of the department or agency concerned as the head thereof may designate for such purpose: *Provided*, that such officer is required to be appointed by the President by and with the advice and consent of the Senate.

(d) Any disagreement between two or more executive departments or agencies with respect to any proposed withdrawal or reservation shall be referred to the Director of the Bureau of the Budget for consideration and adjustment. The Director may, in his discretion, submit the matter to the President for his determination.

SEC. 2. The Secretary of the Interior is authorized to issue such rules and regulations, and to prescribe such procedures, as he may from time to time deem necessary or desirable for the exercise of the authority delegated to him by this order.

SEC. 3. The Secretary of the Interior is authorized to redelegate the authority delegated to him by this order to one or more of the following-designated officers: the

Under Secretary of the Interior and the Assistant Secretaries of the Interior.

SEC. 4. This order supersedes Executive Order No. 9337 of April 24, 1943, entitled "Authorizing the Secretary of the Interior to Withdraw and Reserve Lands of the Public Domain and Other Lands Owned or Controlled by the United States".

EXECUTIVE ORDER No. 9701

Ex. Ord. No. 9701, Mar. 7, 1946, 11 F. R. 2369, was revoked by Ex. Ord. No. 9908, Dec. 5, 1947, 12 F. R. 8223. This is no way affected the revocation of Ex. Ord. No. 9613, Sept. 13, 1945, 10 F. R. 11789, by Ex. Ord. No. 9701.

EXECUTIVE ORDER No. 9908

Ex. Ord. No. 9908, Dec. 5, 1947, 12 F. R. 8223, which revoked Ex. Ord. No. 9701, Mar. 7, 1946, 11 F. R. 2369, was itself revoked by Ex. Ord. No. 10596, Feb. 15, 1955, 20 F. R. 1007. This in no way affected the revocation of Ex. Ord. No. 9701, by Ex. Ord. No. 9908.

§ 142. Lands withdrawn open to exploration under mining laws; rights of occupants or claimants of oil- or gas-bearing lands; national forests.

All lands withdrawn under the provisions of this section and section 141 of this title shall at all times be open to exploration, discovery, occupation, and purchase under the mining laws of the United States, so far as the same apply to metalliferous minerals: *Provided*, That the rights of any person who, at the date of any order of withdrawal, is a bona fide occupant or claimant of oil- or gas-bearing lands and who, at such date, is in the diligent prosecution of work leading to the discovery of oil or gas, shall not be affected or impaired by such order so long as such occupant or claimant shall continue in diligent prosecution of said work: *Provided further*, That this section and section 141 of this title shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claims initiated upon any oil- or gas-bearing lands after any withdrawal of such lands made prior to June 25, 1910: *And provided further*, That there shall be excepted from the force and effect of any withdrawal made under the provisions of this section and section 141 of this title all lands which are, on the date of such withdrawal, embraced in any lawful homestead or desert-land entry theretofore made, or upon which any valid settlement has been made and is at said date being maintained and perfected pursuant to law; but the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made: *And provided further*, That no national forest shall be created, nor shall any additions be made to one created, prior to August 24, 1912, within the limits of the States of California, Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by Act of Congress. (June 25, 1910, ch. 421, § 2, 36 Stat. 847; Aug. 24, 1912, ch. 369, 37 Stat. 497.)

CROSS REFERENCES

No national forest to be created within limits of certain states except by act of Congress, see section 471 of Title 16, Conservation.

§ 143. Reports of withdrawals to Congress.

The Secretary of the Interior shall report all such withdrawals to Congress at the beginning of its next regular session after the date of the withdrawals. (June 25, 1910, ch. 421, § 3, 36 Stat. 848.)

§ 144. Entries on land withdrawn as valuable for oil or gas validated.

Entries existing on February 7, 1925, and allowed prior to April 7, 1924, under sections 291—301 of this title, for land withdrawn as valuable for oil or gas, but not otherwise reserved or withdrawn, are validated, if otherwise regular: *Provided*, That at date of entry the land was not within the limits of the geologic structure of a producing oil or gas field. (Feb. 7, 1925, ch. 147, § 12, 43 Stat. 812.)

§ 145. Sale of lands withdrawn; notice of.

Whenever in the opinion of the Secretary of the Interior any lands which have been withdrawn under the provisions of section 141 of this title for the purpose of exploratory drilling to discover water supplies for irrigation or other purposes, and which have had wells or other permanent improvements placed thereon by and at the expense of the United States are no longer needed for the purpose for which they were withdrawn and improved, the Secretary of the Interior may appraise the lands, together with the improvements thereon, and thereafter sell the same to a citizen of the United States for not less than the appraised value at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land. (Jan. 26, 1921, ch. 27, § 1, 41 Stat. 1089.)

§ 146. Patents to purchasers of lands withdrawn.

Upon payment of the purchase price the Secretary of the Interior is authorized by appropriate patent to convey all the right, title, and interest in and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided*, That not over one hundred and sixty acres shall be sold to any one person: *Provided further*, That any patent issued hereunder shall contain a reservation to the United States of all oil, gas, coal, and other mineral. (Jan. 26, 1921, ch. 27, § 2, 41 Stat. 1089.)

§ 147. Disposition of proceeds of sale of withdrawn lands.

The moneys derived from the sale of such lands and improvements shall be disposed of as are other receipts from the sale and disposal of public lands. (Jan. 26, 1921, ch. 27, § 3, 41 Stat. 1090.)

§ 148. Withdrawal of lands in Indian reservations for power or reservoir sites.

The Secretary of the Interior is authorized, in his discretion, to reserve from location, entry, sale, allotment, or other appropriation any lands within any Indian reservation, valuable for power or reservoir sites, or which may be necessary for use in connection with any irrigation project authorized by Congress: *Provided*, That if no irrigation project shall be authorized prior to the opening of any Indian reservation containing such power or reservoir sites the Secretary of the Interior may, in his discretion, reserve such sites pending future legislation by Congress for their disposition, and he shall report to Congress all reservations made. (June 25, 1910, ch. 431, § 13, 36 Stat. 858.)

§ 149. Exchange of private lands included in Indian reservation for other lands.

Any private land over which an Indian reservation has been extended by Executive order, may be exchanged at the discretion of the Secretary of the Interior and at the expense of the owner thereof and under such rules and regulations as may be prescribed by the Secretary of the Interior, for vacant, nonmineral, nontimbered, surveyed public lands of equal area and value and situated in the same State or Territory. (Apr. 21, 1904, ch. 1402, § 1, 33 Stat. 211.)

§ 150. Withdrawals of land for Indian reservations prohibited.

No public lands of the United States shall be withdrawn by Executive Order, proclamation, or otherwise, for or as an Indian reservation except by act of Congress. (June 30, 1919, ch. 4, § 27, 41 Stat. 34.)

§ 151. Opening of lands restored to entry after withdrawals.

When public lands are excluded from national forests or released from withdrawals the President may, whenever in his judgment it is proper or necessary, provide for the opening of the lands by settlement in advance of entry, by drawing, or by such other method as he may deem advisable in the interest of equal opportunity and good administration, and in doing so may provide that lands so opened shall be subject only to homestead entry by actual settlers only or to entry under the desert-land laws for a period not exceeding ninety days, the unentered lands to be thereafter subject to disposition under the public-land laws applicable thereto. (Sept. 30, 1913, ch. 15, § 1, 38 Stat. 113.)

§ 152. Restoration of lands previously withdrawn.

Where under the law the Secretary of the Interior is authorized or directed to make restoration of lands previously withdrawn he may also restrict the restoration as prescribed in section 151 of this title. (Sept. 30, 1913, ch. 15, § 2, 38 Stat. 114.)

§ 153. Reservation of lands in North Dakota.

Upon receipt of a proper deed from the State of North Dakota, executed under authority of the act of its legislative assembly, approved February 5, 1915, reconveying to the United States title to section 16, township 138 north, range 8I west, fifth principal meridian, the Secretary of the Interior is authorized to issue patents to said State for such vacant, surveyed, unreserved, unoccupied, nonmineral public lands as may be selected by said State within its boundaries, not exceeding one thousand two hundred and eighty acres in aggregate area, and said section when so reconveyed shall not be subject to settlement, location, entry, or selection under the public land laws, but shall be reserved for the use of the Department of Agriculture in carrying on experiments in dry-land agriculture at the Northern Great Plains Field Station, Mandan, North Dakota. (July 3, 1916, ch. 219, 39 Stat. 344.)

§ 154. Vacation of withdrawals under reclamation law; lands valuable for minerals; reservation of rights, ways, and easements; rules and regulations.

Where public lands of the United States have been withdrawn for possible use for construction purposes

under the Federal reclamation laws, and are known or believed to be valuable for minerals and would, if not so withdrawn, be subject to location and patent under the general mining laws, the Secretary of the Interior, when in his opinion the rights of the United States will not be prejudiced thereby, may, in his discretion, open the land to location, entry, and patent under the general mining laws, reserving such ways, rights, and easements over or to such lands as may be prescribed by him and as may be deemed necessary or appropriate, including the right to take and remove from such lands construction materials for use in the construction of irrigation works, and/or the said Secretary may require the execution of a contract by the intending locator or entryman as a condition precedent to the vesting of any rights in him, when in the opinion of the Secretary same may be necessary for the protection of the irrigation interests. Such reservations or contract rights may be in favor of the United States or irrigation concerns cooperating or contracting with the United States and operating in the vicinity of such lands. The Secretary may prescribe the form of such contract which shall be executed and acknowledged and recorded in the county records and United States local land office by any locator or entryman of such land before any rights in their favor attach thereto, and the locator or entryman executing such contract shall undertake such indemnifying covenants and shall grant such rights over such lands as in the opinion of the Secretary may be necessary for the protection of Federal or private irrigation in the vicinity. Notice of such reservation or of the necessity of executing such prescribed contract shall be filed in the Bureau of Land Management and in the appropriate local land office, and notations thereof shall be made upon the appropriate tract books, and any location or entry thereafter made upon or for such lands, and any patent therefor shall be subject to the terms of such contract and/or to such reserved ways, rights, or easements and such entry or patent shall contain a reference thereto.

The Secretary of the Interior may prescribe such rules and regulations as may be necessary to enable him to enforce the provisions of this section. (Apr. 23, 1932, ch. 134, §§ 1, 2, 47 Stat. 136, 137; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out as a note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3, and regulations thereunder. See note under section 1 of this title.

§ 155. Withdrawal, reservation, or restriction of public lands for defense purposes; definition; exception.

Notwithstanding any other provisions of law, except in time of war or national emergency hereafter declared by the President or the Congress,

on and after February 28, 1958 the provisions hereof shall apply to the withdrawal and reservation for, restriction of, and utilization by, the Department of Defense for defense purposes of the public lands of the United States, including public lands in the Territories of Alaska and Hawaii: *Provided*, That—

(1) for the purposes of this Act, the term "public lands" shall be deemed to include, without limiting the meaning thereof, Federal lands and waters of the Outer Continental Shelf, as defined in section 1331 of this title, and Federal lands and waters off the coast of the Territories of Alaska and Hawaii;

(2) nothing in this Act shall be deemed to be applicable to the withdrawal or reservation of public lands specifically as naval petroleum, naval oil shale, or naval coal reserves;

(3) nothing in this Act shall be deemed to be applicable to the warning areas over the Federal lands and waters of the Outer Continental Shelf and Federal lands and waters off the coast of the Territory of Alaska reserved for use of the military departments prior to the enactment of the Outer Continental Shelf Lands Act; and

(4) nothing in this section, section 156, or section 157 of this title shall be deemed to be applicable either to those reservations or withdrawals which expired due to the ending of the unlimited national emergency of May 27, 1941, and which subsequent to such expiration have been and are now used by the military departments with the concurrence of the Department of the Interior, or to the withdrawal of public domain lands of the Marine Corps Training Center, Twentynine Palms, California, and the naval gunnery ranges in the State of Nevada designated as Basic Black Rock and Basic Sawhve Mountain.

(Pub. L. 85-337, § 1, Feb. 28, 1958, 72 Stat. 27.)

REFERENCES IN TEXT

This Act, referred to in the text, means Pub. L. 85-337, which is classified to sections 155-158 of this title, section 2671 of Title 10, Armed Forces, and section 472 (d) of Title 40, Public Buildings, Property and Works.

Prior to the enactment of the Outer Continental Shelf Lands Act, referred to in par. (3), means prior to Aug. 7, 1953, which is the date of enactment of section 1331 et seq. of this title.

§ 156. Same; approval by Congress of over 5,000 acres for any project or facility.

No public land, water, or land and water area shall, except by Act of Congress, on and after February 28, 1958 be (1) withdrawn from settlement, location, sale, or entry for the use of the Department of Defense for defense purposes; (2) reserved for such use; or (3) restricted from operation of the mineral leasing provisions of the Outer Continental Shelf Lands Act, if such withdrawal, reservation, or restriction would result in the withdrawal, reservation, or restriction of more than five thousand acres in the aggregate for any one defense project or facility of the Department of Defense since the date of enactment of this Act or since the last previous Act of Congress which withdrew, reserved, or restricted public land, water, or land and water area for that project or facility, whichever is later. (Pub. L. 85-337, § 2, Feb. 28, 1958, 72 Stat. 28.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in the text, is classified to section 1331 et seq. of this title.

The date of enactment of this Act, referred to in the text, means Feb. 28, 1958, which is the date of enactment of Pub. L. 85-337.

§ 157. Same; applications; specifications.

Any application filed on and after February 28, 1958 for a withdrawal, reservation, or restriction, the approval of which will, under section 156 of this title, require an Act of Congress, shall specify—

(1) the name of the requesting agency and intended using agency;

(2) location of the area involved, to include a detailed description of the exterior boundaries and excepted areas, if any, within such proposed withdrawal, reservation, or restriction;

(3) gross land and water acreage within the exterior boundaries of the requested withdrawal, reservation, or restriction, and net public land, water, or public land and water acreage covered by the application;

(4) the purpose or purposes for which the area is proposed to be withdrawn, reserved, or restricted, or if the purpose or purposes are classified for national security reasons, a statement to that effect;

(5) whether the proposed use will result in contamination of any or all of the requested withdrawal, reservation, or restriction area, and if so, whether such contamination will be permanent or temporary;

(6) the period during which the proposed withdrawal, reservation, or restriction will continue in effect;

(7) whether, and if so to what extent, the proposed use will affect continuing full operation of the public land laws and Federal regulations relating to conservation, utilization, and development of mineral resources, timber and other material resources, grazing resources, fish and wildlife resources, water resources, and scenic, wilderness, and recreation and other values; and

(8) if effecting the purpose for which the area is proposed to be withdrawn, reserved, or restricted, will involve the use of water in any State, whether, subject to existing rights under law, the intended using agency has acquired, or proposes to acquire, rights to the use thereof in conformity with State laws and procedures relating to the control, appropriation, use, and distribution of water.

(Pub. L. 85-337, § 3, Feb. 28, 1958, 72 Stat. 28.)

§ 158. Same; mineral resources.

All withdrawals or reservations of public lands for the use of any agency of the Department of Defense, except lands withdrawn or reserved specifically as naval petroleum, naval oil shale, or naval coal reserves, heretofore or hereafter made by the United States, shall be deemed to be subject to the condition that all minerals, including oil and gas, in the lands so withdrawn or reserved are under the jurisdiction of the Secretary of the

Interior and there shall be no disposition of, or exploration for, any minerals in such lands except under the applicable public land mining and mineral leasing laws: *Provided*, That no disposition of, or exploration for, any minerals in such lands shall be made where the Secretary of Defense, after consultation with the Secretary of the Interior, determines that such disposition or exploration is inconsistent with the military use of the lands so withdrawn or reserved. (Pub. L. 85-337, § 6, Feb. 28, 1958, 72 Stat. 30.)

CROSS REFERENCES

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