

**Forest Service Manual
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**Forest Service Manual 2700 – Special Uses Management
Chapter 2760 - Withdrawals**

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A withdrawal is a management tool for withholding an area of National Forest System land from settlement, sale, location, or entry under some or all of the general land laws, including the mining and mineral leasing law, for the purposes of limiting activities under those laws in order to maintain other public values in the area, or reserving the area for a particular public purpose or program. These programs and purposes may include quality of scientific, scenic, historical, ecological, environmental, air, water resource, archaeological values, or other special purposes.

2761 - Forest Service Withdrawals

2761.01 - Authorities

1. Section 204 of The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) (FLPMA) gives the Secretary of the Interior general authority to make, modify, extend, or revoke most withdrawals on public or reserved Federal lands. The Forest Service must apply to the Secretary of the Interior for withdrawal actions on National Forest lands.

2. Most existing formal withdrawals were made under the following authorities that predate the Federal Land Policy and Management Act. Withdrawals can no longer be made under these authorities.

- a. E.O. 10355.
- b. Secretarial orders.
- c. Pickett Act of 1910.

3. Some areas have been withdrawn by specific acts and subsequent amendments. These areas are subject to withdrawal review as prescribed by Section 204(l)(1) of FLPMA; except those withdrawn by the following act:

- a. Wilderness Act of 1964.
- b. National Recreation Areas (specific acts).
- c. Wild and Scenic Rivers Act of 1968.

2761.02 - Objectives

These objectives apply when evaluating the need for a withdrawal initiated by the Forest Service.

1. Protect the United States' improvements and other unique values that are subject to disposition or destruction under the public land laws.

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2. Provide a consistent and efficient withdrawal program that meets land and resource management objectives.
3. Ensure cooperation and coordination with the Secretary of the Interior and the Bureau of Land Management.
4. Encourage mineral activity where mineral extraction is the best use of the site.

2761.03 - Policy

1. Forest officers should consider withdrawals for areas with a history of mineral findings and in which the management direction is not compatible with alienation or use under the mining laws; for example, research natural areas, interpretive or cultural sites, scenic areas, geologic areas, critical habitat of endangered species having a very limited range and specific habitat requirements not found elsewhere, and botanical areas.
2. Forest officers should consider withdrawals for the National Forest System lands that are occupied by capital improvements in which relocation or replacement would be impractical. These areas would include sites containing major improvements such as offices, work center complexes, and developed recreation areas.
3. Requests for withdrawal from mineral leasing should be made rarely (see FSM 2761.04). Existing public laws, Federal regulations, and leasing stipulations provide substantial opportunities (FSM 2822.2) to accommodate both surface resources and the recovery of leasable minerals.
4. Forest officers should consider withdrawals for National Forest System lands occupied under special-use authorization. Notify permittees holding permits on lands open to mineral development of their risks and liabilities where withdrawal of the area is not appropriate (FSM 2720).
5. Document new withdrawal of lands from alienation or entry under the mining laws by:
 - a. An assessment of the mineral potential.
 - b. An evaluation of alternatives.
 - c. An analysis showing that the use or special features of the area cannot be adequately preserved or protected through other means.
6. Include in the withdrawal the minimum area needed for the intended use.

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7. Revoke withdrawals of National Forest System lands where protection is no longer needed or appropriate.

2761.04 - Responsibilities

The Secretary of the Interior develops, implements, and oversees the withdrawal program and coordinates with Forest Service line officers.

The Chief reserves the right to concur or not concur with all withdrawal requests regarding leasable minerals.

The Regional Forester shall sign reports and correspondence with the Bureau of Land Management or other Federal agencies relating to withdrawals for National Forest System lands and interests in lands.

Regional Foresters shall establish Region-wide guidelines and coordinate actions with the State Director of the Bureau of Land Management.

Forest Supervisors shall initiate actions and prepare applications and recommendations reflecting National Forest needs identified in the National Forest Management Plan.

2761.05 - Definitions

1. Public Lands. Any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except: (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, and Eskimos.

2. National Forest System Lands

a. Reserved Lands. Lands that were withdrawn or reserved for use as part of the National Forests or National Grasslands or received in exchange for the same status of land.

b. Acquired Lands. Unreserved National Forest System lands. These lands are not available for mineral entry.

3. Withdrawal. Withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, including the mining and mineral leasing laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area, or for reserving the area for a particular public purpose or program.

2761.1 - Existing Withdrawals

Withdrawals on National Forest System lands created and administered through the Secretary of the Interior under present or previous authority remain in full effect until the Bureau of Land Management (BLM) publishes an opening order.

Withdrawals created by an act of Congress remain in effect until modified or revoked by Congress. Congressional withdrawals are subject to Federal Land Policy and Management Act (FLPMA) review, except for wilderness areas and those areas formally identified as primitive, natural, or national recreation areas.

2761.11 - Renewal/Modification of Existing Withdrawals (Reserved)

2761.2 - Pending Withdrawals

Numerous Forest Service withdrawal applications were made prior to FLPMA. The Bureau of Land Management (BLM) must process these pending withdrawals by October 21, 1991. These lands described in pending withdrawals are segregated on the public records and a defacto withdrawal is in effect until BLM completes action or by October 21, 1991, whichever comes first. Take followup action as required.

2761.3 - New Withdrawals (Reserved)

2761.4 - Alternatives to Withdrawals

In the analysis and determination for the need of a formal withdrawal, consider the following alternative protection opportunities:

1. Surface Use Regulations (36 CFR 228).
2. Antiquities Act of 1906.
3. National Historic Preservation Act of 1966.
4. Applicable State laws and regulations.
5. Endangered Species Act of 1973.
6. Surface Mining Control and Reclamation Act of 1955.
7. Mineral Lands Leasing Act of 1920.
8. Geothermal Steam Act of 1970.

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9. Mineral leasing stipulations.
10. Special acts and authorities.
11. Rights-of-Way under Title V of FLPMA.
12. Acquired Lands Leasing Act of 1947.

2761.5 - Revocation

Request the Secretary of the Interior to revoke a withdrawal that is no longer needed for management purposes.

2761.6 - Program Development and Budget Planning

The benefiting function shall fund withdrawal actions. See FSM 1930 for general direction on program development and budgeting.

2762 - Federal Energy Regulatory Commission Withdrawals

2762.01 - Authority

Section 24 of the Federal Power Act (FPA) 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 therefore, subject to valid existing rights, be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Federal Energy Regulatory Commission (FERC) or by Congress.

Lands included in an application for exemption of a small conduit hydroelectric facility or small hydroelectric power project of 5 megawatts or less from all or part of the provisions of Part I of the Federal Power Act are not withdrawn.

2762.02 - Objective

Develop and maintain program coordination with FERC.

2762.03 - Policy

Maintain and protect National Forest interests where lands are withdrawn for power purposes.

2762.04 - Responsibilities

1. Federal Energy Regulatory Commission. The Federal Energy Regulatory Commission performs the following:

- a. Establishes, modifies, or revokes withdrawals and notifies the Secretary of the Interior.
- b. Furnishes the Secretary of the Interior with a copy of the FERC application or amendment for recording in the general land records.
- c. Prepares and issues notices in the Federal Register.

2. Secretary of the Interior. The Secretary of the Interior develops, implements, and oversees a system for recording FERC withdrawals.

3. Regional Foresters. Regional Foresters shall establish Region-wide guidelines.

4. Forest Supervisors. Forest Supervisors shall initiate recommendation to modify or revoke unneeded FERC withdrawals that seriously interfere with National Forest System (NFS) programs or the disposal of NFS lands.

2762.1 - Withdrawal Process (Reserved)

2763 - Other Agency Withdrawals

2763.01 - Authority

- 1. Section 204 of the Federal Land Policy and Management Act of 1976.
- 2. The Act of February 28, 1958 (43 U.S.C. 155-158), sometimes referred to as the Engle Act, authorizes Department of Defense (DOD) applications for national defense withdrawals, reservations, or restrictions aggregating 5,000 acres or more for any one project or facility. Department of Defense withdrawals, reservations, or restrictions may be authorized only by an act of Congress.
- 3. The Reclamation Act of June 17, 1902, as amended by the Act of June 25, 1910.
- 4. The Federal Power Act of June 10, 1920, as amended.

2763.02 - Objectives

1. Develop and maintain program coordination with other Government agencies requiring the use of National Forest System lands.

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2. Review and coordinate withdrawal proposals by other agencies with NFS purposes.

2763.03 - Policy

Approve withdrawal requests only if the project is compatible with National Forest Management objectives or acceptable mitigation measures can be accomplished.

2763.04 - Responsibilities

The Regional Forester shall:

1. Coordinate with the Bureau of Land Management and other government agencies.
2. Consent to withdrawal requests.

2763.1 - Withdrawal Process

Federal agencies may request a withdrawal of National Forest System lands for specific purposes through the Secretary of the Interior under Bureau of Land Management (BLM) Regulations 43 CFR 2310.1. The BLM grants withdrawal of National Forest System lands for use by other agencies only with the consent of the Forest Service, except in the case of an emergency.

2764 - Withdrawal Review Program

2764.01 - Authority

Section 204(f and l) of the Federal Land Policy and Management Act of 1976 requires the Secretary of the Interior to review certain withdrawals existing on the date of approval of the act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The review will include all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas, designated as national recreation areas, national wild and scenic rivers and national system trails) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

2764.02 - Objectives

1. Develop and implement a withdrawal review program that will meet National Forest Management objectives and also will be consistent with Bureau of Land Management guidelines.

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2. Coordinate and cooperate with the Bureau of Land Management.
3. Simplify the review process and resulting actions.
4. Maintain mineral resource availability consistent with other National Forest resource uses.

2764.03 - Policy

1. Revoke withdrawals that are no longer needed.
2. Avoid the premature opening of National Forest System public lands without a proper analysis to afford continued protection of Federal uses or projects.
3. Request continuation or modification of existing withdrawals that meet the requirements identified in FSM 2761.03.
4. Recommend action on existing withdrawals to conform with direction identified in the Forest Land and Resource Management Plan for the area currently withdrawn.
5. Give priority to the following categories of withdrawal:
 - a. Areas of Critical Mineral Potential (ACMP) that have been identified as a result of the President's March 2, 1982, Report to Congress. The Bureau of Land Management will provide lists to each National Forest of affected National Forest System lands.
 - b. Highly mineralized areas where National Forest surface resources would not be seriously damaged or could be reclaimed.

2764.04 - Responsibilities

The following responsibilities are in addition to those listed in FSM 2761.04:

1. The Washington Office, Director of Lands, shall set broad withdrawal review priorities, coordinate the overall withdrawal review program with the Bureau of Land Management, and maintain emphasis and support for program funding.
2. The Regional Foresters shall develop the Regional withdrawal review schedule and coordinate and process all review actions through the appropriate Bureau of Land Management State Office.
3. The Forest Supervisors shall develop specific case review schedules to meet priorities and assigned targets, conduct withdrawal reviews, and submit recommendations.

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2764.1 - Review Process (Reserved)

2764.2 - Program Development and Budget Planning

Pending the receipt of appropriated funds, the Washington Office will allocate funds annually for the reviews. To complete the review, one-fifth of the sites must be reviewed each year through FY 1989.