

External Affairs Divisions of the Office of Pesticide Programs. The proposed revisions are directed at antimicrobial pesticides, not conventional pesticides, biochemical and microbial pesticides or product performance data requirements. Nonetheless, all interested parties are welcome and may benefit from the discussions since two areas not addressed in the conventional pesticide (72 FR 60934), or biochemical and microbial pesticide (72 FR 60988) data requirements final rules are addressed in the antimicrobial data requirements proposed rule. These two areas are: down-the-drain data requirements and the Program's use of structure-activity-relationship (SAR).

During the workshop, persons in attendance will be able to ask questions regarding the proposed rule and/or material being presented and seek any clarification they believe may assist them in submitting comments to the docket for the proposed rule. Any person wishing to comment on the proposed rule must submit any comments to the docket within the timeframe set forth in the Notice of Proposed Rulemaking for the proposed rule.

The proposed revisions were issued in the **Federal Register** of October 8, 2008. A 90-day comment period will end on January 6, 2009. A limited number of copies of the proposed rule will be available at the workshop. Attendees are encouraged to access the electronic version of the proposed rule from the regulations.gov website under Docket ID No. EPA-HQ-OPP-2008-0110.

#### List of Subjects in 40 CFR Parts 158 and 161

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 17, 2008.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

[FR Doc. E8-24025 Filed 10-9-08; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 2300

[WO-350-08 1430 PN]

RIN 1004-AE05

#### Land Withdrawals; Removal of Regulations Covering Emergency Withdrawals

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would remove regulations that provide for emergency withdrawals. These regulations are redundant, since public lands can be protected without substantial delay via conventional withdrawal procedures, without recourse to the regulations providing for emergency withdrawals. Moreover, constitutional issues may arise whenever a Congressional committee directs the Secretary of the Interior (Secretary) to withdraw lands immediately.

**DATES:** Send your comments on this proposed rule to the BLM on or before October 27, 2008. Comments received or postmarked after this date may not be considered in the decision-making process on the issuance of the proposed rule.

**ADDRESSES:** You may mail written comments to the Director (630), Bureau of Land Management, 1620 L Street, NW., Room 401, Washington, DC 20036, Attention: RIN 1004-AE05; or hand-deliver written comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC 20036. Comments will be available for public review at the L Street address from 7:45 a.m. to 4:15 p.m., Eastern Time, Monday through Friday, except Federal holidays. *Federal eRulemaking Portal:* <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For information on the substance of the proposed rule, please contact Jeff Holdren at 202-452-7779 or Vanessa Engle at 202-452-7776. For information on procedural matters, please contact Jean Sonneman at 202-785-6577. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individuals during business hours. FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals.

You will receive a reply during normal business hours.

#### SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
  - A. Case Law
  - B. 1991 Rulemaking
- III. Discussion of the Proposed Rule
  - A. The Two Processes
  - B. The Constitutional Issue
- IV. Procedural Matters

#### I. Public Comment Procedures

*Electronic Access and Filing Address:* You may view an electronic version of this proposed rule at the BLM's Internet home page at <http://www.blm.gov> or at <http://www.regulations.gov>. You may comment via the Internet at: <http://www.regulations.gov>. If you submit your comments electronically, please include your name and return address in your Internet message.

*Written Comments:* You may mail your comments to: Director (630), Bureau of Land Management, 1620 L Street, NW., Room 401, Washington, DC 20036, Attention: RIN 1004-AE05. You may deliver comments to: 1620 L Street, NW., Room 401, Washington, DC 20036.

Please make your comments as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposed rule that you are addressing.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

The Department of the Interior (DOI) may not necessarily consider or include in the Administrative Record for the proposed rule comments that we receive after the close of the comments period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

#### II. Background

This proposed rule would remove regulations that provide for emergency withdrawals. These regulations, including 43 CFR 2310.5, provide that the Secretary of the Interior shall withdraw lands immediately upon determining that an emergency exists and that extraordinary measures need to be taken to protect natural resources or

resource values that otherwise would be lost. Section 2310.5 also requires an immediate withdrawal when either of two committees of the Congress notifies the Secretary that it has made the same determination that would support an emergency withdrawal initiated by the Secretary. 43 CFR 2310.5(a). Section 204(e) of the Federal Land Policy and Management Act (FLPMA) provides that this authority may be exercised by the Committee on Natural Resources of the House of Representatives or by the Committee on Energy and Natural Resources of the Senate. 43 U.S.C. 1714(e). (Before 1994, Section 204(e) referred to the House and Senate Committees on Interior and Insular Affairs.)

#### A. Case Law

In the years since the enactment of section 204(e) in 1976, the emergency withdrawal provisions, whether by initiation of the Secretary or Congressional committee, have been used sparingly. Two previous committee notices (both from the House Committee on Interior and Insular Affairs) led to litigation in which the constitutionality of section 204(e) was challenged. See *Pacific Legal Foundation v. Watt*, 529 F. Supp. 982 (D. Montana 1981); *National Wildlife Federation v. Watt*, 571 F. Supp. 1145 (D.D.C. 1983) (granting preliminary injunction); *National Wildlife Federation v. Clark*, 577 F. Supp. 825 (D.D.C. 1984) (granting summary judgment).

In *Pacific Legal Foundation*, the Secretary and other parties argued that FLPMA Section 204(e) was unconstitutional because its application through unilateral action by the committee: (a) Violated the separation of powers doctrine, (b) delegated executive power to the committee, (c) violated the requirement of bicameralism (i.e., legislation must be approved by both Houses of Congress), and (d) deprived the President of his veto power (known as the presentment requirement). At the time of that case, the U.S. Court of Appeals for the Ninth Circuit had set aside, as unconstitutional, a statutory provision that authorized either House of Congress to execute a legislative veto over decisions made by the Attorney General. *Chadha v. Immigration and Naturalization Service*, 634 F.2d 408 (9th Cir. 1980). Relying in part on that decision, the Federal district court in Montana held that, but for one distinguishing feature of section 204(e), the Ninth Circuit's ruling in *Chadha* would have "compelled" the district court to declare Section 204(e) unconstitutional. *Pacific Legal*

*Foundation v. Watt*, 529 F. Supp. 982, 1002 (D. Montana 1981). According to the district court, the saving feature of Section 204(e) was Secretarial discretion to determine the scope and duration of an emergency withdrawal. *Id.* at 1000.

Subsequently, the Supreme Court affirmed the Ninth Circuit's decision in *Immigration and Naturalization Service v. Chadha*, 462 U.S. 919 (1983). The breadth of the Supreme Court's ruling casts doubt on the validity of the Montana court's reasoning that the Secretary's discretion to set the scope and duration of the withdrawal saves the statute. For example, the Court stated, "Congress' authority to delegate portions of its power to administrative agencies provides no support for the argument that Congress can constitutionally control administration of the laws by way of a congressional veto." 462 U.S. at 953 n.16.

The second case in which the constitutionality of FLPMA section 204(e) was at issue, *National Wildlife Federation v. Watt*, began when environmental organizations brought suit against the Secretary, seeking review of a notice to receive and accept bids for the sale of coal leases. The plaintiffs argued that the notice was in contravention of a resolution adopted by the Interior and Insular Affairs Committee of the House of Representatives, directing the Secretary to withdraw certain lands from coal leasing temporarily. The court held that a forced withdrawal, like the legislative veto that was invalidated by the Supreme Court in *Chadha*, would probably be held to be legislative in character, since it alters the legal rights and duties of the Secretary of the Interior. Accordingly, the court found that the plaintiffs' attempt to distinguish Section 204(e) from an invalid legislative-veto provision, on the grounds that the withdrawal was temporary, was unlikely to succeed. *National Wildlife Federation v. Watt*, 571 F. Supp. 1145, 1155 (D.D.C. 1983). However, the court found that the plaintiffs were likely to prevail on the merits of their claim that the primary emergency-withdrawal regulation (43 CFR 2310.5) was binding on the Secretary irrespective of the validity of section 204(e), since no action had been taken to remove the regulation through notice-and-comment procedures. 571 F. Supp. at 1158. In a subsequent decision granting the plaintiffs' motion for summary judgment, the court found that it was unnecessary to reach the constitutional question, and instead required that the Secretary "honor his own regulation unless and until he has rescinded or amended it after an

appropriate rulemaking proceeding, or until the Committee has vacated its Resolution." *National Wildlife Federation v. Clark*, 577 F. Supp. 825, 828–29 (D.D.C. 1984).

#### B. 1991 Rulemaking

In 1991, the BLM published a proposal to remove all regulations in 43 CFR part 2300 that are concerned with emergency withdrawals (56 FR 59914 (Nov. 26, 1991)). That proposed rule was never finalized, and it was withdrawn from the Semi-Annual Regulatory Agenda in 1993. In addition to raising the constitutional issue, the preamble for the proposed rule included an explanation that the first sentence of section 204(e) is redundant, since public lands can be protected rapidly through the normal exercise of the general withdrawal authority, without invoking FLPMA section 204(e).

The BLM received five comments during a 30-day comment period. One comment supported the 1991 proposed rule as written. The other four comments opposed the proposed rule. One such comment expressed the opinion that the executive branch has the duty to "faithfully execute the laws" and should therefore not challenge the constitutionality of a statute. That comment also expressed the view that the Department should leave the emergency withdrawal provisions in place in order to maintain a "harmonious relationship with Congress." Several comments expressed the opinion that the Department should not refuse to implement the portion of section 204(e) providing for a committee-directed withdrawal as unconstitutional unless and until a court makes the determination that the statute is in fact unconstitutional. Those comments also expressed the view that the statute was not unconstitutional, with one comment arguing that although the committee notifies the Secretary of the emergency, the notification provision of section 204(e) is constitutional because the Secretary has the discretion to set the scope and duration of the withdrawal and because the limited purpose of that provision is to give Congress time to act legislatively. Thus, the comment argued that the committee notification was not a "legislative act" under *Chadha*. Two comments argued that the Property Clause of the Constitution gives Congress broad power over the public lands, including the power to require a withdrawal upon committee notification.

Several comments voiced the belief that the statute was not redundant. One argued that the statute was not

redundant because the committee withdrawal provision was not available under the normal withdrawal authority conferred by FLPMA section 204 and that the provision was necessary to force the Secretary to act in emergency situations.

One comment argued that the proposed rule would create an inconsistency between the statute and the regulation and confuse Congress and the public. That comment also stated that, instead of proposing a rule, the BLM should request public input on how best to deal with the issue.

### III. Discussion of the Proposed Rule

As we proposed in 1991, we are now proposing that in the future the policy of the Department of the Interior will be to shield natural resource values, when immediate protection from the operation of the general land laws (including mining laws) is called for, by means of the conventional withdrawal process as prescribed in 43 CFR part 2300, and not through the issuance of emergency withdrawal orders. This proposed rule is in accordance with that policy.

#### A. The Two Processes

The BLM's experience indicates that the procedures for issuing an emergency withdrawal order do not result in the protection of public lands more rapidly than the completion of a more conventional withdrawal process. Conventional procedures enable the BLM to protect public lands, without substantial delay, for as long as 2 years by publishing a **Federal Register** notice of the filing of a withdrawal application or proposal. Such publication temporarily segregates the public lands from settlement, sale, location, or entry under the public land laws, including the mining laws, to the extent specified in the notice. 43 CFR 2310.2(a). The notice is required to provide for a suitable period of at least 90 days after publication for public comment on the requested action. 43 CFR 2310.3–1(b)(2)(iv).

If a petition seeks an emergency withdrawal, the petition is filed simultaneously with an application for withdrawal. 43 CFR 2310.1–3(d). If the Secretary approves a petition for an emergency withdrawal, the publication and notice provisions pertaining to emergency withdrawals are applicable. 43 CFR 2310.1–3(e). Those provisions, at 43 CFR 2310.5, include the immediate issuance of an order signed by the Secretary which is effective when signed, does not exceed 3 years in duration, and may not be extended by the Secretary. 43 CFR 2310.5(a). The

Secretary also sends a notice of the emergency withdrawal to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate the same day it is signed, and sends a report to both committees within 90 days. 43 CFR 2310.5(b) and (c).

Initially, the 2-year segregation that occurs immediately upon notice of a conventional withdrawal proposal or application has the same effect as the first 2 years of a 3-year emergency withdrawal. However, the conventional process permits the extension of a withdrawal that is granted during the 2-year segregative period, if warranted by the purpose for which the withdrawal was first made. 43 CFR 2310.4(a). In contrast, an emergency withdrawal may not be extended by the Secretary. 43 CFR 2310.5(a). Lands involved in an emergency withdrawal may continue to be withdrawn past the expiration of the emergency withdrawal only via the conventional withdrawal procedures. *Id.*

Public notice and opportunities for comment under conventional withdrawal procedures (43 CFR 2310.3–1(b)(2)(iv)–(v) and (c)) do not occur for emergency withdrawals. Unlike the emergency process, the conventional process ensures that the BLM casts a wide net for information. The conventional process takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in land or other natural resources. It also properly accommodates public participation in the Federal decision-making process. In short, the emergency withdrawal process is unnecessary because of the segregative effect provided by the conventional withdrawal process.

#### B. The Constitutional Issue

Whenever a Congressional committee directs the Secretary to withdraw lands immediately, issues with regard to the constitutionality of that action are likely to arise. Such issues do not arise upon the exercise of the Secretary's conventional withdrawal authority.

This rulemaking is not a forum for resolving the validity of the Committee-directed withdrawal provision of section 204(e). However, in view of the district court's ruling in *National Wildlife Federation v. Clark*, we believe the existing emergency-withdrawal regulations may be an impediment to resolving that question in an appropriate forum.

The substantive changes in this rule are the same as those proposed in 1991. In addition, we have made

nonsubstantive stylistic changes in keeping with current format requirements of the CFR. In these circumstances, since the public has had an opportunity to comment on the 1991 proposed rule, a comment period of 15 days provides adequate opportunity for meaningful analysis, and reasonable time within which to formulate comments for submission.

### IV. Procedural Matters

#### *Executive Order 12866, Regulatory Planning and Review*

The Office of Management and Budget has determined that this proposed rule is not a "significant regulatory action" within the meaning of Executive Order 12866.

- This proposed rule will not have an annual effect on the economy of \$100 million or more, and will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

- This proposed rule will not create any serious inconsistency or otherwise interfere with any action taken or planned by another agency.

- This proposed rule will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of their recipients.

- This proposed rule will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

#### *National Environmental Policy Act*

The BLM has determined that this proposed rule removing the provisions for emergency withdrawals is of a procedural nature. Therefore, this rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, CX 1.10. In addition, this rule does not present any of the 12 extraordinary circumstances listed in 516 DM, Chapter 2, Appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for

which neither an environmental assessment nor an environmental impact statement is required.

#### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The BLM has determined that this proposed rule removing the provisions for processing emergency withdrawals will not have a significant economic impact on a substantial number of small entities under the RFA. As stated above in the preamble, the proposed rule would only remove the administrative process for processing emergency withdrawals.

#### *Small Business Regulatory Enforcement Fairness Act*

This proposed rule is not a “major rule” as defined at 5 U.S.C. 804(2) because it will not have an annual effect on the economy greater than \$100 million; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

#### *Unfunded Mandates Reform Act*

This proposed rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector, in the aggregate, of \$100 million or more per year; nor does the rule have a significant or unique effect on State, local, or tribal governments. The rule would impose no requirements on these entities. The changes in this proposed rule would not have effects approaching \$100 million per year on the private sector. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

#### *Executive Order 12630, Government Action and Interference With Constitutionally Protected Property Rights (Takings)*

This proposed rule is not a government action capable of interfering with constitutionally protected property rights. Therefore, the DOI has determined that the rule would not

cause a taking of private property or require further discussion of takings implications under this Executive Order.

#### *Executive Order 13132, Federalism*

This proposed rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that this proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

#### *Executive Order 12988, Civil Justice Reform*

The BLM has determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

#### *Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, the BLM has determined that this proposed rule will not result in significant changes to BLM policy and that tribal Governments will not be unduly affected by this rule. This rule has no bearing on trust lands, or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

#### *Information Quality Act*

In developing this proposed rule, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554.).

#### *Executive Order 13211, Effects on the Nation's Energy Supply*

This proposed rule has no implications under Executive Order 13211.

#### *Executive Order 13352, Facilitation of Cooperative Conservation*

In accordance with Executive Order 13352, the BLM has determined that this proposed rule is administrative in content, involving only changes affecting issuance of emergency withdrawals. The regulatory provisions governing the conventional withdrawal process, unlike those governing the emergency withdrawal process, provide for public participation. In proposing a policy of using the conventional withdrawal process instead of the

emergency withdrawal process, we are facilitating cooperative conservation. Thus, this proposed rule does not impede the facilitation of cooperative conservation; takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety.

#### *Paperwork Reduction Act*

The BLM has determined that this proposed rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

#### *Executive Order 12866, Clarity of Regulations*

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

1. Are the requirements in the proposed rule clearly stated?
2. Does the proposed rule contain technical language or jargon that interferes with its clarity?
3. Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
4. Would the proposed rule be easier to understand if it were divided into more (but shorter) sections?
5. Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful? How could this description be more helpful in making the proposed rule easier to understand?

Please send any comments you have on the clarity of the proposed rule to the address specified above in the **ADDRESSES** section.

#### *Authors*

The principal authors of this proposed rule are Jeff Holdren and Vanessa Engle of the Division of Lands, Realty, and Cadastral Survey, BLM Washington Office (WO), with assistance from the Division of Regulatory Affairs (WO) and the Office of the Solicitor, Department of the Interior.

**List of Subjects in 43 CFR Part 2300**

Administrative practice and procedure, electric power, Federal Energy Regulatory Commission, public lands-withdrawal.

Under the authorities cited below, part 2300, group 2300, subchapter B, chapter II of title 43 of the Code of Federal Regulations is proposed to be amended as follows:

**C. Stephen Allred,**

*Assistant Secretary of the Interior, Land and Minerals Management.*

**PART 2300—LAND WITHDRAWALS**

1. The authority citation for part 2300 continues to read as follows:

**Authority:** 43 U.S.C. 1201; 43 U.S.C. 1740; Executive Order No. 10355 (17 FR 4831, 4833).

**Subpart 2300—Withdrawals, General****§ 2300.0–1 [Amended]**

2. Section 2300.0–1 is amended by removing the last sentence in paragraph (a).

**Subpart 2310—Withdrawals, General—Procedure**

3. Section 2310.1 is amended by revising the introductory text of paragraph (a) to read as follows:

**§ 2310.1 Procedures—general.**

(a) The basic steps leading up to the making, modification, or extension of a withdrawal are:

\* \* \* \* \*

4. Section 2310.1–2 is amended by revising paragraphs (a), (c)(3), and (d) to read as follows:

**§ 2310.1–2 Submission of applications.**

(a) Applications for the making, modification, or extension of a withdrawal shall be submitted for filing, in duplicate, in the proper Bureau of Land Management office, as set forth in § 1821.2–1 of this chapter, except for applications that are classified for national security reasons. Applications that are classified for national security reasons shall be submitted, in duplicate, to the Office of the Secretary, Department of the Interior, Washington, DC 20240.

\* \* \* \* \*

(c) \* \* \*

(3) If the lands that are subject to an application are wholly or partially under the administration of any department or agency other than the Department of the Interior, the Secretary must make or modify a withdrawal only with the consent of the head of the department or agency concerned. In

such case, a copy of the written consent must accompany the application. The requirements of section (e) of Executive Order 10355 (17 FR 4831) must be complied with in those instances where the Order applies.

\* \* \* \* \*

(d) If the preceding application requirements have not been met, or if an application seeks an action that is not within the scope of the Secretary's authority, the authorized officer may reject the application as a defective application.

5. Section 2310.1–3 is amended by revising paragraph (c), removing paragraph (d), redesignating paragraph (e) as paragraph (d), and revising newly redesignated paragraph (d) to read as follows:

**§ 2310.1–3 Submission of withdrawal petitions.**

\* \* \* \* \*

(c) If a petition is submitted simultaneously with a withdrawal application, the information requirements pertaining to withdrawal applications (See § 2310.1–2) shall supersede the requirements of this section.

(d) Upon the approval by the Secretary of a petition for withdrawal, the petition will be considered as a Secretarial proposal for withdrawal, and notice of the withdrawal proposal shall be published immediately in the **Federal Register** in accordance with § 2310.3–1(a).

6. Section 2310.3, which consists solely of a heading, is revised to read as follows:

**§ 2310.3 Action on withdrawal applications and withdrawal proposals.**

7. Section 2310.3–1 is amended by revising the first sentence in paragraph (b)(1) to read as follows:

**§ 2310.3–1 Publication and public meeting requirements.**

\* \* \* \* \*

(b)(1) Except as otherwise provided in paragraph (a) of this section, within 30 days of the submission for filing of a withdrawal, extension, or modification application, the authorized officer must publish in the **Federal Register** a notice to that effect. \* \* \*

\* \* \* \* \*

8. Section 2310.3–3 is amended by revising paragraph (b)(2) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(2) On the same day an order withdrawing 5,000 or more acres in the

aggregate is signed, the Secretary must advise each House of the Congress, in writing, of the withdrawal action taken. Under the Secretary's authority in the Act, the notices that are sent to Congress must be accompanied by the information required by section 204(c)(2) of the Act (43 U.S.C. 1714(c)(2)).

\* \* \* \* \*

9. Section 2310.3–4 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c), and revising newly redesignated paragraph (c) to read as follows:

**§ 2310.3–4 Duration of withdrawals.**

\* \* \* \* \*

(c) Withdrawals of specific duration may be extended, as provided for in § 2310.4.

**§ 2310.5 [Removed]**

10. Section 2310.5 is removed.

[FR Doc. E8–23823 Filed 10–9–08; 8:45 am]

BILLING CODE 4310–84–P

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 67**

[Docket No. FEMA-B–1010]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

**DATES:** Comments are to be submitted on or before January 8, 2009.