

**Subpart C—Procedures**

**§ 14.20 Application.**

**§ 14.21 Form.**

*Application.* The application shall be prepared and submitted in accordance with the requirements of this section. It should be in typewritten form or legible handwriting. It must specify that it is made pursuant to the regulations in this part and that the applicant agrees that the right-of-way if approved, will be subject to the terms and conditions of the applicable regulations contained in this part. It should also cite the act to be invoked and state the primary purposes for which the right-of-way is to be used. Applications shall be filed with the superintendent. If the right-of-way has been utilized without authority prior to the time the application is made, the application must state the date such utilization commenced and by whom, and the date the applicant alleges he obtained control of the improvements.

**§ 14.22 Reimbursement of costs.**

(a)(1) An applicant for a right-of-way or a permit incident to a right-of-way shall reimburse the United States for administrative and other costs incurred by the United States in processing the application, including the preparation of reports and statements pursuant to the National Environmental Policy Act (42 U.S.C. 4321-4347), before the right-of-way or permit will be issued under the regulations of this part.

(2) The regulations contained in this section do not apply to: (i) State or local governments or agencies or instrumentalities thereof where the lands will be used for governmental purposes and the lands and resources will continue to serve the general public; (ii) road use agreements or reciprocal road agreements; or (iii) Federal government agencies.

(3) An applicant must submit with each application a nonreturnable payment in accordance with the following schedule:

(i) Each right-of-way or permit incident to a right-of-way for crossing National Park System lands (e.g., for

powerlines, pipelines, roads, and other linear facilities).

Length	Payments
Less than 5 miles .....	\$50 per mile or fraction thereof.
5 to 20 miles .....	\$500.
20 miles and over .....	\$500 for each 20 miles or fraction thereof.

(ii) Each right-of-way or permit incident to a right-of-way, not included in paragraph (a)(3)(i) of this section (e.g., for communication sites, reservoir sites, plant sites, and other non-linear facilities)—\$250 for each 40 acres or fraction thereof.

(iii) If a project has the features of paragraphs (a)(3) (i) and (ii) of this section in combination, the payment shall be the total of the amounts required by paragraphs (a)(3) (i) and (ii) of this section.

(4) When an application is received, the authorized officer shall estimate the costs expected to be incurred by the United States in processing the application. If, in the judgment of the authorized officer, such costs will exceed the paragraph (a)(3) of this section, payment by an amount which is greater than the cost of maintaining actual cost records for the application review process, the authorized officer shall require the applicant to make periodic payments of the estimated reimbursable costs prior to the incurrence of such costs by the United States. Such payments may be refunded or adjusted as provided by paragraph (a)(8) of this section.

(5) Prior to the issuance of any authorization for a right-of-way or permit incident to a right-of-way, the applicant will be required to pay additional amounts to the extent the costs of the United States have exceeded the payments required by paragraphs (a) (3) and (4) of this section.

(6) An applicant whose application is denied shall be responsible for administrative and other costs incurred by the United States in processing its application, and such amounts as have not been paid in accordance with paragraphs (a) (3) and (4) of this section shall be due within thirty days of receipt of notice from the authorized officer of the amount due.

(7) An applicant who withdraws its application before a decision is reached

on it is responsible for costs incurred by the United States in processing such application up to the date upon which the authorized officer receives written notice of the withdrawal, and for costs subsequently incurred by the United States in terminating the application review process. Reimbursement of such costs shall be due within thirty days of receipt of notice from the authorized officer of the amount due.

(8) If payment, as required by paragraphs (a)(4) and (b)(3) of this section exceeds actual costs to the United States, a refund may be made by the authorized officer from applicable funds, under authority of 43 U.S.C. 1374, or the authorized officer may adjust the next billing to reflect the overpayment previously received. Neither an applicant nor a holder shall set off or otherwise deduct any debt due to or any sum claimed to be owed them by the United States without the prior written approval of the authorized officer.

(9) The authorized officer shall on request give an applicant or a prospective applicant an estimate, based on the best available cost information, of the costs which would be incurred by the United States in processing an application. However, reimbursement will not be limited to the estimate of the authorized officer if actual costs exceed the projected estimate.

(10) When two or more applications for rights-of-way are filed which the authorized officer determines to be in competition with each other, each shall reimburse the United States according to paragraphs (a) (3) through (7) of this section except that costs which are not readily identifiable with one of the applications, such as costs for an environmental impact statement on all the proposals, shall be paid by each of the applicants in equal shares.

(11) The authorized officer may require an applicant to furnish security, in an amount acceptable to the authorized officer, by bond, guaranty, cash, certificate of deposit, or other means acceptable to the authorized officer, for costs under §14.22. The authorized officer may at any time, and from time to time, require such additional security or substitution of security as the authorized officer deems appropriate.

(12) When an applicant for a right-of-way is a partnership, corporation, association, or other entity, and is owned or controlled, directly or indirectly, by one or more other entities, one or more of the owning or controlling entity or entities shall furnish security in an amount acceptable to the authorized officer, by bond, guaranty, cash, certificate of deposit or other means acceptable to the authorized officer, for costs under §14.22. The authorized officer may at any time, and from time to time, require such additional security or substitution of security as the authorized officer deems appropriate.

(13) When through partnership, joint venture or other business arrangement, more than one person, partnership, corporation, association or other entity apply together for a right-of-way, each such applicant shall be jointly and severally liable for costs under §14.22.

(14) When two or more noncompeting applications for rights-of-way are received for what, in the judgment of the authorized officer, is one right-of-way system, all the applicants shall be jointly and severally liable for costs under §14.22 for the entire system; subject, however, to the provisions of paragraphs (a) (11) through (13) of this section.

(15) The regulations contained in §14.22 are applicable to all applications for rights-of-way or permits incident for rights-of-way over the public lands pending on June 1, 1975.

(b)(1) After issuance of a right-of-way or permit incident to a right-of-way, the holder thereof shall reimburse the United States for costs incurred by the United States in monitoring the construction, operation, maintenance, and termination of authorized facilities on the right-of-way or permit area, and for protection and rehabilitation of the lands involved.

(2) Each holder of a right-of-way or permit incident to a right-of-way must submit within 60 days of the issuance thereof a nonreturnable payment in accordance with the following schedule:

(i) Each right-of-way or permit incident to a right-of-way, for crossing National Park System lands (e.g., for powerlines, pipelines, roads, and other linear facilities).

**§ 14.23**

**36 CFR Ch. I (7-1-02 Edition)**

Length	Payment
Less than 5 miles .....	\$20 per mile or fraction thereof.
5 to 20 miles .....	\$200.
20 miles and over .....	\$200 for each 20 miles or fraction thereof.

(ii) Each right-of-way or permit incident to a right-of-way, not included in paragraph (b)(2)(i) of this section (e.g., for communication sites, reservoir sites, plant sites, and other nonlinear facilities)—\$100 for each 40 acres or fraction thereof.

(iii) If a project has the feature of paragraphs (b)(2) (i) and (ii) of this section in combination, the payment shall be the total of the amounts required by paragraphs (b)(2) (i) and (ii) of this section.

(3) When a right-of-way or permit incident to a right-of-way is issued, the authorized officer shall estimate the costs, based on the best available cost information, expected to be incurred by the United States in monitoring holder activity. If such costs exceed the paragraph (b)(2) payment by an amount which is greater than the cost of maintaining actual cost records for the monitoring process, the authorized officer shall require the holder to make periodic payments of the estimated reimbursable costs prior to the incurrence of such costs by the United States. Such payments may be refunded or adjusted as provided by paragraph (a)(8) of this section.

(4) Following termination of a right-of-way or permit incident to a right-of-way, the former holder will be required to pay additional amounts to the extent the actual costs incurred by the United States have exceeded the payments required by paragraphs (b) (2) and (3) of this section.

**§ 14.23 Showing as to organizations required of corporations.**

(a) An application by a private corporation must be accompanied by a copy of its charter or articles of incorporation, duly certified by the proper State official of the State where the corporation was organized.

(b) A corporation, other than a private corporation, should file a copy of the law under which it was formed and due proof of organization under the same.

(c) When a corporation is operating in a State other than that in which it was incorporated, it must submit a certificate of the Secretary of State or other proper official of the State that it has complied with the laws of that State governing foreign corporations to the extent required to entitle the company to operate in such State.

(d) A copy of the resolution or bylaws of the corporation authorizing the filing of the application must also be filed.

(e) If the corporation shall have previously filed with the National Park Service the papers required by this section, the requirements shall be held to be met if, in making subsequent applications, specific reference is made to such previous filing by date, place, and case number.

**§ 14.24 Showing as to citizenship required.**

(a) *Individuals.* An individual applicant applying for a right-of-way under any right-of-way act, except the Act of March 3, 1891 (26 Stat. 1101; 43 U.S.C. 946 *et seq.*), and the Act of January 13, 1897 (29 Stat. 484; 43 U.S.C. 952-955), as amended, must state whether he is native born or naturalized, and, if naturalized, the date of naturalization, the court in which naturalized, and the number of the certificate, if known. If citizenship is claimed by virtue of naturalization of the father, evidence of his naturalization, and that the applicant resided in the United States thereafter while a minor, should be furnished. Where the husband and the wife are native born and a statement to that effect is made, additional information as to the marital status is not required. In other cases, a married woman or widow must show the date of her marriage; a widow must show, in addition, the date of the death of her husband.

(b) *Association of Individuals.* An application by an association, including a partnership, must be accompanied by a certified copy of the articles of association, if any; if there be none, the application must be made over the signature of each member of the association. Each member must furnish evidence of citizenship where it would be required if he were applying individually.