

## National Park Service, Interior

## § 14.38

water power projects under rights-of-way previously approved by this Department.

### § 14.27 Application and use procedure.

### § 14.28 Incomplete application and reports.

Where an application is incomplete or not in conformity with the law or regulations the authorized officer may, in his discretion, (1) notify the applicant of the deficiencies and provide the applicant with an opportunity to correct the deficiencies; or (2) the authorized officer may reject the application.

### § 14.29 Timely construction.

(a) Unless otherwise provided by law, a period of up to five years from the date a right-of-way is granted is allowed for completion of construction. Within 90 days after completion of construction or after all restoration stipulations have been complied with, whichever is later, proof of construction, on forms approved by the Director, shall be submitted to the authorized officer.

(b) The time for filing proof of construction may be extended by the authorized officer, unless prohibited by law, upon a satisfactory showing of the need therefor and the filing of a progress report, demonstrating that due diligence toward completion of the project is being exercised, for reasonable lengths of time not to exceed a total of ten years from the date of issuance of the right-of-way.

### § 14.30 Nonconstruction, abandonment or nonuse.

Unless otherwise provided by law, rights-of-way are subject to cancellation by the authorized officer for failure to construct within the period allowed and for abandonment or nonuse.

### § 14.31 Deviation from approved right-of-way.

No deviation from the location of an approved right-of-way shall be undertaken without the prior written approval of the authorized officer. The authorized officer may require the filing of an amended application in accordance with §14.20 wherein the au-

thorized officer's judgment the deviation is substantial.

### § 14.32 Revocation or cancellation.

### § 14.33 Order of cancellation.

All rights-of-way approved pursuant to this part, shall be subject to cancellation for the violation of any of the provisions of this part applicable thereto or for the violation of the terms or conditions of the right-of-way. No right-of-way shall be deemed to be cancelled except on the issuance of a specific order of cancellation.

### § 14.34 Change in jurisdiction over lands.

A change in jurisdiction over the lands from one Federal agency to another will not cancel a right-of-way involving such lands. It will however, change the administrative jurisdiction over the right-of-way.

### § 14.35 Transfer of right-of-way.

### § 14.36 Method of filing.

Any proposed transfer in whole or in part of any right, title or interest in a right-of-way, or permit incident to a right-of-way acquired under any law, except the Act of March 3, 1891 (26 Stat. 1101; 43 U.S.C. 946-949), must be filed in accordance with §14.20 for approval, must be accompanied by the same showing of qualifications of the transferee as is required of the applicant, and must be supported by a stipulation that the assignee agrees to comply with and to be bound by the terms and conditions of the right-of-way. No transfer will be recognized unless and until it is first approved in writing by the authorized officer.

### § 14.37 Reimbursement of costs.

All filings for transfer approval made pursuant to this section, except as to rights-of-way or permits incident to rights-of-way excepted by §14.22(a)(4), must be accompanied by a nonrefundable payment of \$25.

### § 14.38 Disposal of property on termination of right-of-way.

Upon the termination of a right-of-way by expiration or by prior cancellation, in the absence of any agreement

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to the contrary, if all monies due the Government thereunder have been paid, the holder of the right-of-way will be allowed six months or such additional time as may be granted in which to remove from the right-of-way all property or improvements of any kind, other than a road and usable improvements to a road, placed thereon by him; but if not removed within the time allowed, all such property and improvements shall become the property of the United States.

**Subpart D—Under Title 23, U.S.C.  
(Interstate and Defense High-  
way System)**

**§ 14.50 Authority.**

(a) Title 23, United States Code, section 107, paragraph (d), provides that whenever rights-of-way, including control of access, on the National System of Interstate and Defense Highways are required over lands or interests in lands owned by the United States, Secretary of Transportation may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands. It directs any such agency to cooperate with the Secretary of Transportation in this connection.

(b) Title 23, United States Code, section 317, provides that:

(1) If the Secretary of Transportation determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway constructed on the Federal-aid primary system, the Federal-aid secondary system and the National System of Interstate and Defense Highways, or under Title 23, United States Code, Chapter 2, or as a source of materials for the construction or maintenance of any such highway adjacent to such lands or interests in lands, the Secretary of Transportation shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.

(2) If within a period of 4 months after such filing the Secretary of such department shall not have certified to the Secretary of Transportation that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such lands or materials have been reserved or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such lands and materials may be appropriated and transferred to the State highway department or its nominee, for such purposes and subject to the conditions so specified.

**§ 14.51 Extent of grant.**

By decision of the Secretary, Nevada Department of Highways, A.24151, September 1945, it was held that the law imports discretion and indicates no intent to vest in the State a right at the end of the four months' period without further action by the Department having jurisdiction. It was held further that the interest transferred under the statute is merely a right-of-way or right to take materials and that the Government may reserve the right to dispose of leasable minerals.

**§ 14.52 Termination of right-of-way no longer needed.**

If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State highway department to the Secretary of Transportation and such lands or materials shall immediately revert to the control of the Secretary of the Department from which they had been appropriated. Notice by the State highway departments, that the need for the land or material no longer exists may be given directly to the Bureau which granted the rights.

**§ 14.53 Application.**

**§ 14.54 General.**

Applications for rights-of-way and material sites under title 23, U.S.C., for lands under the jurisdiction of the National Park Service, together with four copies of a durable and legible map