

## National Park Service, Interior

## § 14.57

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 shall be filed by the appropriate State highway department with the Director, National Park Service, Department of Interior, Washington, D.C. 20240. Maps should accurately describe the land or interest in land desired, showing the survey of the right-of-way, properly located with respect to the public land surveys so that said right-of-way may be accurately located on the ground by any competent engineer or land surveyor. The map should comply with the requirements of § 14.25(a).

### § 14.55 Consultation with local bureau officials, program values.

An applicant will be expected, at the earliest possible date prior to the filing of an application, to consult with the local officials of the National Park Service to ascertain whether or not the use or appropriation of the lands for right-of-way purposes is consistent with the Service's management program and to agree to such measures as may be necessary to maintain program values. Failure to do so may lead to an unresolvable conflict of interest and necessitate disallowance of the application.

### § 14.56 Concurrence by Federal Highway Administration.

The appropriate State highway department will forward a copy of each application and map filed with the National Park Service to the authorized officer of the Federal Highway Administration for a determination whether the lands and interests in lands are necessary for the purposes of Title 23, United States Code.

### § 14.57 Approval.

After receipt of such determination that the lands or interests in lands under application are reasonably necessary for the purposes of Title 23, U.S.C., the authorized officer of the National Park Service will notify the applicant and the authorized officer of

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the Federal Highway Administration either (a) that the approval of the application would be contrary to the public interest or inconsistent with the purposes for which the lands or materials have been reserved or (b) that he proposes to grant the right-of-way under the regulations of this part, subject to said regulations and to such conditions which he indicates in his notice.

### § 14.58 Terms and conditions of allowance.

Grants of rights-of-way under Title 23, U.S.C., by the authorized officer of the National Park Service will be made to the appropriate State highway department or to its nominee and based upon considerations of adequate protection and utilization of Federal lands and interests in lands will be subject to (a) all the pertinent regulations of this part except those which the authorized officer, upon formal request of the applicant may modify or dispense with, in whole or in part, upon a finding that it is in the public interest and in conformity with the purposes of Title 23, U.S.C., and (b) any conditions which he deems necessary. Grants of highway right-of-way under this subpart may include an appropriation and release to the State or its nominee of all rights of the United States, as owner of underlying and abutting lands, to cross over or gain access to the highway from its lands crossed by or abutting the right-of-way, subject to such terms and conditions and for such duration as the authorized officer of the National Park Service deems appropriate.

### § 14.59 Additional rights-of-way within highway rights-of-way.

A right-of-way granted under this subpart confers upon the grantee the right to use the lands within the right-of-way for highway purposes only. Separate application must be made under pertinent statutes and regulations in order to obtain authorization to use the lands within such rights-of-way for other purposes. Additional rights-of-way will be subject to the highway rights-of-way. Future relocation or change of the additional right-of-way made necessary by the highway use will be accomplished at the expense of

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the additional right-of-way grantee. Prior to the granting of an additional right-of-way the applicant therefor will submit to the authorized officer a written statement from the highway right-of-way grantee indicating any objections it may have thereto, and such stipulations as it considers desirable for the additional right-of-way.

### § 14.60 General.

No application under the regulations of this part is required for a right-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, for facilities usual to a highway, except (a) where terms of the grant or a provision of law specifically requires the filing of an application for a right-of-way, (b) where the right-of-way is for electric transmission facilities which are designed for operation at a nominal voltage of 33 KV or above or for conversion to such operation, or (c) where the right-of-way is for oil or gas pipelines which are part of a pipeline crossing other public lands, or if not part of such a pipeline, which are more than two miles long. When an application is not required under the provisions of this subparagraph, qualified persons may appropriate rights-of-way for such usual highway facilities with the consent of the holder of the highway right-of-way, which holder will be responsible for compliance with §14.9, in connection with the construction and maintenance of such facilities.

### § 14.61 Terms of grant.

Except as modified by §14.60 of this subpart, rights-of-way within the limits of a highway right-of-way granted pursuant to Title 23 U.S.C., and applications for such rights-of-way, are subject to all the regulations of this part pertaining to such rights-of-way.

## Subpart E—Power Transmission Lines, General

### § 14.70 Statutory authority.

(a) The Act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959), authorizes the Secretary under such regulations as he may fix, to permit the use of rights-of-way through public lands and certain reservations of the United States, for