

#### § 2741.4

the proposed use, various investigations, studies, analyses, public meetings and negotiations may be required of the applicant prior to the submission of the application. Where a determination is made that studies and analyses are required, the authorized officer shall inform the potential applicant of these requirements.

(d) The potential applicant may be permitted to go upon the public lands to perform casual acts related to data collection necessary for development of an acceptable plan of development as required in § 2741.4(b) of this title. These casual acts include, but are not limited to:

- (1) Vehicle use on existing roads;
- (2) Sampling;
- (3) Surveys required for siting of structures or other improvements; and
- (4) Other activities which do not unduly disturb surface resources. If, however, the authorized officer determines that appreciable impacts to surface resources may occur, he/she may require the potential applicant to obtain a land use authorization permit with appropriate terms and conditions under the provision of part 2920 of this title.

[50 FR 50300, Dec. 10, 1985]

#### § 2741.4 Applications.

(a) Applications shall be submitted on forms approved by the Director, Bureau of Land Management.

(b) Each application shall be accompanied by three copies of a statement describing the proposed use of the land. The statement shall show that there is an established or definitely proposed project for such use of the land, present detailed plan and schedule for development of the project and a management plan which includes a description of how any revenues will be used. The provisions of § 1821.2 of this title apply to filings pursuant to this section.

(c) Each application shall be accompanied by a nonrefundable filing fee of \$100. The filing fee shall be required for new applications as well as for applications for change of use or transfer of title filed under § 2741.6 of this title.

[44 FR 43472, July 25, 1979. Redesignated and amended at 50 FR 50300, Dec. 10, 1985]

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#### § 2741.5 Guidelines for conveyances and leases under the act.

(a) Public lands shall be conveyed or leased under the act only for an established or definitely proposed project for which there is a reasonable timetable of development and satisfactory development and management plans.

(b) No public lands having national significance shall be conveyed pursuant to the act.

(c) No more public lands than are reasonably necessary for the proposed use shall be conveyed pursuant to the act.

(d) For proposals involving over 640 acres, public lands shall not be sold or leased pursuant to this act until:

(1) Comprehensive land use plans and zoning regulations for the area in which the lands are located have been adopted by the appropriate State or local authorities.

(2) The authorized officer has held at least one public meeting on the proposal.

(e) Applications shall not be approved unless and until it has been determined that disposal under the act would serve the national interest following the planning requirements of section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712).

(f) Public lands may be determined to be suitable for lease or sale under the act by the authorized officer on his own motion as a result of demonstrated public needs for public lands for recreational or public purposes during the planning process described in section 202 of the Federal Land Policy and Management Act.

(g) Lands under the jurisdiction of another agency shall not be determined to be suitable for lease or sale without that agency's approval.

(h)(1) A notice of realty action which shall serve as a classification of public lands as suitable or unsuitable for conveyance or lease under the act shall be issued, published and sent to parties of interest by the authorized officer not less than 60 days prior to the proposed effective date of the classification action. Notices specifying public lands classified as suitable shall include: the use proposed; whether the lands are to be conveyed or leased; and the terms, covenants, conditions and reservations

which shall be included in the conveyance or lease document. The notice shall provide at least 45 days from the date of issuance for submission of public comments.

(2) If the notice of realty action states that the lands are classified as suitable for conveyance or lease under the act, it shall segregate the public lands described in the notice from appropriation under any other public land law, including locations under the mining laws, except as provided in the notice or any amendments or revisions to the notice. If, after 18 months following the issuance of the notice, an application has not been filed for the purpose for which the public lands have been classified, the segregative effect of the classification shall automatically expire and the public lands classified in the notice shall return to their former status without further action by the authorized officer.

(3) The notice of realty action shall be published once in the FEDERAL REGISTER and once a week for 3 weeks thereafter in a newspaper of general circulation in the vicinity of the public lands covered by the notice.

(4) The notice published under §1610.5-5 of this title, if designated in the notice, shall serve as the notice of realty action required by this section and shall segregate the public lands as stated in the notice. Any such notice given under §1610.5-5 of this title shall be published and distributed under the provisions of this section.

(i) The Act shall not be used to provide sites for the disposal of permanent or long-term hazardous wastes.

[44 FR 43472, July 25, 1979. Redesignated at 51 FR 50300, Dec. 10, 1985, and amended at 50 FR 50301, Dec. 10, 1985; 51 FR 1795, Jan. 15, 1986; 57 FR 32733, July 23, 1992]

**§ 2741.6 Applications for transfer or change of use.**

(a) Applications under the act for permission to add to or change the use specified in a patent or applications to transfer title to a third party shall be filed as prescribed in §2741.4 of this title.

(b) Applications for transfer of title are subject to the acreage limitations as prescribed in §2741.7(a) of this title.

(c) Prior to approval of an application filed under this section, the public lands may be reappraised in accordance with §2741.8 of this title and the beneficiary required to make such payments as are found justified by the reappraisal.

[44 FR 43472, July 25, 1979. Redesignated at 51 FR 50300, Dec. 10, 1985, and amended at 50 FR 50301, Dec. 10, 1985]

**§ 2741.7 Acreage limitations and general conditions.**

(a) Conveyances under the Act to any applicant in any one calendar year shall be limited as follows:

(1) Any State or State agency having jurisdiction over the State park system may acquire not more than 6,400 acres for recreational purposes and such additional acreage as may be needed for small roadside parks and rest sites of 10 acres or less each.

(2) Any State or agency or instrumentality of such State may acquire not more than 640 acres for each of its programs involving public purposes other than recreation.

(3) Any political subdivision of a State may acquire for recreational purposes not more than 6,400 acres, and for public purposes other than recreation an additional 640 acres. In addition, any political subdivision of a State may acquire such additional acreage as may be needed for roadside parks and rest sites of not more than 10 acres each.

(4) If a State or political subdivision has failed in any one calendar year to receive 6,400 acres (not counting public lands for small roadside parks and rest sites) and had an application on file on the last day of that year, the State, State park agency or political subdivision may receive additional public lands to the extent that the conveyances would not have exceeded the limitations for that year.

(5) Any nonprofit corporation or nonprofit association may acquire for recreational purposes not more than 640 acres and for public purposes other than recreation an additional 640 acres.

(6) Acreage limitations described in this section do not apply to conveyances made under section 211 of the Federal Land Policy and Management Act of 1976.

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(b) Conveyances within any State shall not exceed 25,600 acres for recreational purposes per calendar year, except that should any State park agency or political subdivision fail in one calendar year to receive 6,400 acres other than small roadside parks and rest sites, additional conveyances may be made thereafter to that State park agency or political subdivision pursuant to any application on file on the last day of said year to the extent that the conveyances would not have exceeded the limitations of said year.

(c) No patents shall be issued under the act unless and until the public lands are officially surveyed. This requirement does not apply to islands patented under the authority of section 211(a) of the Federal Land Policy and Management Act of 1976.

(d) All leases and patents issued under the act shall reserve to the United States all minerals together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior. Where such reserved minerals are subject to disposition under the provisions of the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181 *et seq.*), the Materials Act of July 31, 1947, as amended (30 U.S.C. 601 *et seq.*) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 *et seq.*), the regulations contained in Subchapter C of this title shall be utilized.

[44 FR 43472, July 25, 1979. Redesignated at 51 FR 50300, Dec. 10, 1985, and amended at 50 FR 50301, Dec. 10, 1985]

### § 2741.8 Price.

(a) Conveyances for recreational or historic-monument purposes to a State, county, or other State or Federal instrumentality or political subdivision shall be issued without monetary consideration.

(b) All other conveyances shall be made at prices established by the Secretary of the Interior through appraisal or otherwise, taking into consideration the purpose for which the land is to be used.

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(c) Patents shall be issued only after payment of the full purchase price by a patent applicant.

[44 FR 43472, July 25, 1979. Redesignated at 50 FR 50300, Dec. 10, 1985]

### § 2741.9 Patent provisions.

(a) All patents under the act shall provide that title shall revert upon a finding, after notice and opportunity for a hearing, that, without the approval of the authorized officer:

(1) The patentee or its approved successor attempts to transfer title to or control over the lands to another;

(2) The lands have been devoted to a use other than that for which the lands were conveyed;

(3) The lands have not been used for the purpose for which they were conveyed for a 5-year period; or

(4) The patentee has failed to follow the approved development plan or management plan.

(b) Patents shall also provide that the Secretary of the Interior may take action to revest title in the United States if the patentee directly or indirectly permits his agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees, and permittees) to prohibit or restrict the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, sex or national origin.

[44 FR 43472, July 25, 1979. Redesignated at 50 FR 50300, Dec. 10, 1985]

### Subpart 2742—Recreation and Public Purposes Act: Omitted Lands and Unsurveyed Islands

SOURCE: 44 FR 41794, July 18, 1979, unless otherwise noted. Redesignated at 50 FR 50301, Dec. 10, 1985.

### § 2742.1 Lands subject to disposition.

Omitted lands and unsurveyed islands may be conveyed to States and their local political subdivisions under the provisions of section 211 of the Federal Land Policy and Management Act (43 U.S.C. 1721).

[50 FR 50301, Dec. 10, 1985]

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### § 2742.2 Qualifications of applicants.

States and their political subdivisions are qualified applicants.

### § 2742.3 Survey requirement.

(a) Islands. (1) Survey is not necessary. However, unsurveyed islands shall be determined by the Secretary to be public lands of the United States.

(2) Islands shall be surveyed at the request of the applicant, as provided in part 9185 of this chapter.

(b) Determination as to whether lands, other than islands, are public lands of the United States erroneously or fraudulently omitted from the original surveys shall be by survey. Surveys shall be in accordance with the requirements of part 9185 of this title.

### § 2742.4 Conveyance limitations.

(a) No conveyances shall be made under this section until the relevant State government, local government, and areawide planning agency have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(b) At least 60 days prior to offering for sale or otherwise conveying public lands under this section, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land-use regulatory jurisdiction in the geographical area within which such lands are located in order to afford the appropriate body the opportunity to zone or otherwise regulate change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance.

(c) Conveyances under this section may be made without regard to acreage limitations contained in the Recreation and Public Purposes Act.

### § 2742.5 Consistency with other laws.

The provision of the Recreation and Public Purposes Act prohibiting disposal for any use authorized under any other law does not apply to conveyances under this subpart.

## Subpart 2743—Recreation and Public Purposes Act: Solid Waste Disposal

SOURCE: 57 FR 32733, July 23, 1992, unless otherwise noted.

### § 2743.1 Applicable regulations.

Unless the requested action falls within the provision of § 2743.2(b), applications filed or actions taken under this subpart shall be subject to all the requirements set forth in subpart 2741 of this chapter except §§ 2741.6 and 2741.9.

### § 2743.2 New disposal sites.

(a) Public lands may be conveyed for the purpose of solid waste disposal or for any other purpose that the authorized officer determines may include the disposal, placement, or release of any hazardous substance subject to the following provisions:

(1) The applicant shall furnish a copy of the application, plan of development, and any other information concerning the proposed use to all Federal and State agencies with responsibility for enforcement of laws applicable to lands used for the disposal, placement, or release of solid waste or any hazardous substance. The applicant shall include proof of this notification in the application filed with the authorized officer;

(2) The proposed use covered by an application shall be consistent with the land use planning provisions contained in part 1600 of this title, and in compliance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371) and any other Federal and State laws and regulations applicable to the disposal of solid wastes and hazardous substances;

(3) Conveyance shall be made only of lands classified for sale pursuant to the procedures and criteria in part 2400 of this title;

(4) The applicant shall warrant that it will indemnify and hold the United States harmless against any liability that may arise out of any violation of Federal or State law in connection with the use of the lands;

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(5) The authorized officer shall investigate the lands covered by an application to determine whether or not any hazardous substance is present. The authorized officer will require full reimbursement from the applicant for the costs of the investigation. The authorized officer may, in his or her discretion, make an exception to the requirement of full reimbursement if the applicant demonstrates that such costs would result in undue hardship. The investigation shall include but not be limited to:

(i) A review of available records related to the history and use of the land;

(ii) A visual inspection of the property; and

(iii) An appropriate analysis of the soil, water and air associated with the area;

(6) The investigation conducted under paragraph (a)(5) of this section must disclose no hazardous substances and there is a reasonable basis to believe that no such substances are present; and

(7) The applicant shall present certification from the State agency or agencies responsible for environmental protection and enforcement that they have reviewed all records, inspection reports, studies, and other materials produced or considered in the course of the investigation and that based on these documents, such agency or agencies agree with the authorized officer that no hazardous substances are present on the property.

(b) The authorized officer shall not convey public lands covered by an application if hazardous substances are known to be present.

(c) The authorized officer shall retain as permanent records all environmental analyses and appropriate documentation, investigation reports, State certifications, and other materials produced or considered in determining the suitability of public lands for conveyance under this section.

**§ 2743.2-1 Patent provisions for new disposal sites.**

For new disposal sites, each patent will provide that:

(a) The patentee shall comply with all Federal and State laws applicable

to the disposal, placement, or release of hazardous substances;

(b) The patentee shall indemnify and hold harmless the United States against any legal liability or future costs that may arise out of any violation of such laws;

(c) Except as provided in paragraph (e) of this section, the land conveyed under § 2743.2 of this part shall revert to the United States unless substantially used in accordance with an approved plan and schedule of development on or before the date five years after the date of conveyance;

(d) If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and the approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon; and

(e) No portion of the land covered by such patent shall under any circumstance revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance.

**§ 2743.3 Leased disposal sites.**

(a) Upon request by or with the concurrence of the lessee, and only with the express approval of the Director, Bureau of Land Management, the authorized officer may issue a patent for those lands covered by a lease, or portion thereof, issued on or before November 9, 1988, that have been or will be used, as specified in the plan of development, for solid waste disposal or for any other purpose that the authorized officer determines may result in or include the disposal, placement, or release of any hazardous substance, subject to the following provisions:

(1) All conveyances shall be consistent with the land use planning provisions contained in part 1600 of this title, and in compliance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371) and any other Federal and State

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laws and regulations applicable to the disposal of solid wastes and hazardous substances;

(2) Conveyances shall be made only of lands classified for sale pursuant to the procedures and criteria in part 2400 of this title.

(3) The authorized officer shall investigate the lands to be included in the patent to determine whether they are contaminated with hazardous substances. The authorized officer will require full reimbursement from the lessee for the costs of the investigation. The authorized officer may, in his or her discretion, make an exception to the requirement of full reimbursement if the applicant demonstrates that such costs would result in undue hardship. The investigation shall include but not be limited to the following:

(i) A review of all records and inspection reports on file with the Bureau of Land Management, State, and local agencies relating to the history and use of the lands covered by a lease and any violations and enforcement problems that occurred during the term of the lease;

(ii) Consultation with the lessee and users of the landfill concerning site management and a review of all reports and logs pertaining to the type and amount of solid waste deposited at the landfill;

(iii) A visual inspection of the leased site; and

(iv) An appropriate analysis of the soil, water and air associated with the area;

(4) The investigation conducted under paragraph (a)(3) of this section must establish that the involved lands contain only those quantities and types of hazardous substances consistent with household wastes, or wastes from conditionally exempt small quantity generators (40 CFR 261.5), and there is a reasonable basis to believe that the contents of the leased disposal site do not threaten human health and the environment; and

(5) The applicant shall present certification from the State agency or agencies responsible for environmental protection and enforcement that they have reviewed all records, inspection reports, studies, and other materials produced or considered in the course of

the investigation and that based on these documents, such agency or agencies agree with the authorized officer that the contents of the leased disposal site in question do not threaten human health and the environment.

(b) The authorized officer shall not convey lands identified in paragraph (a) of this section if the investigation concludes that the lands contain hazardous substances at concentrations that threaten human health and the environment.

(c) The authorized officer shall retain as permanent records all environmental analyses and appropriate documentation, investigation reports, State certifications, and other materials produced or considered in determining the suitability of public lands for conveyance under this section.

### § 2743.3-1 Patent provisions for leased disposal sites.

Each patent for a leased disposal site will provide that:

(a) The patentee shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances;

(b) The patentee shall indemnify and hold harmless the United States against any legal liability or future costs that may arise out of any violation of such laws; and

(c) No portion of the land covered by such patent shall under any circumstance revert to the United States.

### § 2743.4 Patented disposal sites.

(a) Upon request by or with the concurrence of the patentee, the authorized officer may renounce the reversionary interests of the United States in land conveyed on or before November 9, 1988, and rescind any portion of any patent or other instrument of conveyance inconsistent with the renunciation upon a determination that such land has been used for solid waste disposal or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance.

(b) If the patentee elects not to accept the renunciation of the reversionary interests, the provisions contained in §§ 2741.6 and 2741.9 shall continue to apply.

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**Group 2800—Use; Rights-of-Way**

**PART 2800—RIGHTS-OF-WAY,  
PRINCIPLES AND PROCEDURES**

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AUTHORITY: 43 U.S.C. 1733, 1740, and 1761-1771.

SOURCE: 45 FR 44526, July 1, 1980, unless otherwise noted.

**Subpart 2800—Rights-of-Way:  
General**

**§ 2800.0-1 Purpose.**

The purpose of the regulations in this part is to establish procedures for the orderly and timely processing of applications, grants, permits, amendments, assignments and terminations for rights-of-way and permits over, upon, under or through public lands pursuant to title V, Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761-1771) and for the administration, assignment, monitoring and termination of right-of-way grants issued on or before October 21, 1976, pursuant to then existing statutory authority.

[45 FR 44526, July 1, 1980, as amended at 51 FR 6543, Feb. 25, 1986]

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### § 2800.0-2 Objectives.

It is the objective of the Secretary of the Interior to grant rights-of-way and temporary use permits, covered by the regulations in this part, to any qualified individual, business entity, or governmental entity and to regulate, control and direct the use of said rights-of-way on public land so as to:

(a) Protect the natural resources associated with the public lands and adjacent private or other lands administered by a government agency.

(b) Prevent unnecessary or undue environmental damage to the lands and resources.

(c) Promote the utilization of rights-of-way in common with respect to engineering and technological compatibility, national security and land use plans.

(d) Coordinate, to the fullest extent possible, all actions taken pursuant to this part with State and local governments, interested individuals and appropriate quasi-public entities.

### § 2800.0-3 Authority.

Sections 303, 310, and 501-511 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733, 1761-1771) authorize the Secretary of the Interior to issue regulations providing for the use, occupancy, and development of the public lands through permits, easements, and rights-of-way.

[54 FR 25854, June 20, 1989]

### § 2800.0-5 Definitions.

As used in this part, the term:

(a) *Act* means the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701 *et seq.*).

(b) *Secretary* means the Secretary of the Interior.

(c) *Authorized officer* means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.

(d) *Public lands* means any lands or interest in land owned by the United States and administered by the Secretary 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.

(e) *Applicant* means any qualified individual, partnership, corporation, association or other business entity, and any Federal, State or local governmental entity including municipal corporations which applies for a right-of-way grant or a temporary use permit.

(f) *Holder* means any applicant who has received a right-of-way grant or temporary use permit.

(g) *Right-of-way* means the public lands authorized to be used or occupied pursuant to a right-of-way grant.

(h) *Right-of-way grant* means an instrument issued pursuant to title V of the act, or issued on or before October 21, 1976, pursuant to then existing statutory authority, authorizing the use of a right-of-way over, upon, under or through public lands for construction, operation, maintenance and termination of a project.

(i) *Temporary use permit* means a revocable non-possessory, non-exclusive privilege, authorizing temporary use of public lands in connection with construction, operation, maintenance, or termination of a project.

(j) *Facility* means an improvement constructed or to be constructed or used within a right-of-way pursuant to a right-of-way grant. For purposes of communication site rights-of-way, facility means the building, tower, and/or other related incidental improvements authorized under terms of the right-of-way grant.

(k) *Project* means the transportation or other system for which the right-of-way is authorized.

(l) *Designated right-of-way corridor* means a parcel of land either linear or areal in character that has been identified by law, by Secretarial Order, through the land use planning process or by other management decision as being a preferred location for existing and future right-of-way grants and suitable to accommodate more than 1 type of right-of-way or 1 or more rights-of-way which are similar, identical or compatible; and