

Title 43: Public Lands: Interior

PART 2910—LEASES

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Subpart 2912—Recreation and Public Purposes Act

Authority: Recreation and Public Purposes Act, as amended (43 U.S.C. 869, *et seq.*).

Source: 44 FR 43473, July 25, 1979, unless otherwise noted.

§ 2912.0-7 Cross reference.

The general requirements and procedures under the Recreation and Public Purposes Act are contained in part 2740 of this title.

§ 2912.1 Nature of interest.

§ 2912.1-1 Terms and conditions of lease.

(a) The term of leases under the Recreation and Public Purposes Act, hereafter referred to as *the Act*, shall be fixed by the authorized officer but shall not exceed 20 years for nonprofit associations and nonprofit corporations, and 25 years for Federal, State, and local governmental entities. A lease may contain, at the discretion of the authorized officer, a provision giving the lessee the privilege of renewing the lease for a like period.

(b) Leases shall be issued on a form approved by the Director, Bureau of Land Management and shall contain terms and conditions required by law, and public policy, and which the authorized officer considers necessary for the proper development of the land, for the protection of Federal property, and for the protection of the public interest.

(c) Leases shall be terminable by the authorized officer upon failure of the lessee to comply with the terms of the lease, upon a finding, after notice and opportunity for hearing, that all or part of the land is being devoted to a use other than the use authorized by the lease, or upon a finding that the land has not been used by the lessee for the purpose specified in the lease for any consecutive period specified by the authorized officer. The specified period of non-use or unauthorized use shall not be less than 2 years nor more than 5 years.

(d) Reasonable annual rentals shall be established by the Secretary of the Interior and shall be payable in advance. Upon notification of the amount of the yearly rental, a lease applicant shall be required to pay at least the first year's rental before the lease shall be issued. Upon the voluntary relinquishment of a lease before the expiration of its term, any rental paid for the unexpired portion of the term shall be returned to the lessee upon a proper application for repayment to the extent that the amount paid covers a full lease year or years of the remainder of the term of the original lease. Leases 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.

(e) Leases are not transferable except with the consent of the authorized officer. Transferees shall have all the qualifications of applicants under the Act and shall be subject to all the terms and conditions of the regulations in this part.

(f) A lessee shall not be permitted to cut timber from the leased lands without prior permission from the authorized officer.

(g) All leases 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.

§ 2912.2 Renewal of leases.

A lessee with a privilege of renewal must notify the authorized officer at least 180 days before the end of the lease period that it will exercise the privilege.

§ 2912.3 Substitution of a new lease.

A lessee may apply for a new lease at any time. Applications for new leases shall be accompanied by consent of the lessee to cancellation of the existing lease upon the issuance of the new lease and by three copies of a statement showing (a) the need for a new lease and (b) any changes in the use or management of the lands or the terms and conditions of the lease which the applicant desires.

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PART 2740—RECREATION AND PUBLIC PURPOSES ACT

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Authority: 43 U.S.C. 869 *et seq.*, 43 U.S.C. 1701 *et seq.*, and 31 U.S.C. 9701.

Subpart 2740—Recreation and Public Purposes Act: General

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Source: 44 FR 43471, July 25, 1979, unless otherwise noted.

§ 2740.0-1 Purpose.

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These regulations provide guidelines and procedures for transfer of certain public lands under the Recreation and Public Purposes Act as amended (43 U.S.C. 869 *et seq.*), to States or their political subdivisions, and to nonprofit corporations and associations, for recreational and public purposes.

§ 2740.0-2 Objective.

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The objective is to meet the needs of certain State and local governmental agencies and other qualified organizations for public lands required for recreational and public purposes.

§ 2740.0-3 Authority.

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(a) The Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*), commonly known as the Recreation and Public Purposes Act, authorizes the Secretary of the Interior to lease or convey public lands for recreational and public purposes under specified conditions.

(b) Section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721), authorizes the Secretary of the Interior to convey to States or their political subdivisions unsurveyed islands determined by the Secretary to be public lands of the United States and *omitted lands* under the Recreation and Public Purposes Act without regard to acreage limitations contained in the Act.

(c) Section 3 of the Act of June 14, 1926, as amended by the Recreation and Public Purposes Amendment Act of 1988, authorizes the Secretary of the Interior to convey public lands for the purpose of solid waste disposal or for any other purpose which may result in or include the disposal, placement, or release of any hazardous substance, with special provisions relating to reversion of such lands to the United States.

[44 FR 43471, July 25, 1979, as amended at 57 FR 32732, July 23, 1992]

§ 2740.0-5 Definitions.

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As used in this part, the term:

(a) *Act* means the Recreation and Public Purposes Act as amended by section 212 of the Federal Land Policy and Management Act of 1976.

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

(c) *Public lands* means any lands and interest in lands administered by the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

(d) *Public purpose* means for the purpose of providing facilities or services for the benefit of the public in connection with, but not limited to, public health, safety or welfare. Use of lands or facilities for habitation, cultivation, trade or manufacturing is permissible only when necessary for and integral to, i.e., and essential part of, the public purpose.

(e) *Conveyance* means a transfer of legal title. Leases issued pursuant to subpart 2912 of this title are not conveyances.

(f) *Hazardous substance* means any substance designated pursuant to Environmental Protection Agency regulations at 40 CFR part 302.

(g) *Solid waste* means any material as defined under Environmental Protection Agency regulations at 40 CFR part 261.

[44 FR 43471, July 25, 1979, as amended at 50 FR 50300, Dec. 10, 1985; 57 FR 32732, July 23, 1992]

§ 2740.0-6 Policy.

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(a) To assure development of public lands in accordance with a development plan and compliance with an approved management plan, the authorized officer may require that public lands first be leased under the provisions of subpart 2912 of this title for a period of time prior to issuance of a patent, except for conveyances under subpart 2743 of this title.

(b) Municipal corporations may not secure public lands under this act which are not within convenient access to the municipality and within the same State as the municipality. Other qualified governmental applicants may not secure public lands outside their political boundaries or other area of jurisdiction.

(c) Where lands are conveyed under the act with a reservation of the mineral estate to the United States, the Bureau of Land Management shall not thereafter convey that mineral estate to the surface owner under the provisions of section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(d) Lease or conveyance of lands for purposes other than recreational or public purposes is not authorized by the act. Uses which can be more appropriately authorized under other existing authorities shall not be authorized under the act. Approval of leases or conveyances under the act shall not be made unless the public lands shall be used for an established or definitely proposed project. A commitment by lessee(s) or conveyee(s) to a plan of physical development, management and use of the lands shall be required before a lease or conveyance is approved. Use of public lands for nonrecreational or nonpublic purposes, whether by lease or conveyance, may be applied for under sections 203 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713, 1732) or other applicable authorities.

(e) The Bureau of Land Management shall not exercise the exchange authority of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) for the purpose of acquiring lands for later conveyance under the act.

(f) The Bureau of Land Management shall not use Federal funds to undertake determinations of the validity of mining claims on public lands for the sole purpose of clearing title so that the lands may be leased or conveyed under the act.

[44 FR 43471, July 25, 1979, as amended at 50 FR 50300, Dec. 10, 1985; 57 FR 32732, July 23, 1992]

§ 2740.0-7 Cross references.

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(a) Requirements and procedures for conveyance of land under the Recreation and Public Purposes Act are contained in subpart 2741 of this chapter.

(b) Requirements and procedures for leasing of land under the Recreation and Public Purposes Act are contained in subpart 2912 of this title.

(c) Requirements and procedures for conveyance of unsurveyed islands and omitted lands under section 211 of the Federal Land Policy and Management Act are contained in subpart 2742 of this chapter.

(d) Requirements and procedures for conveyance of land under the Recreation and Public Purposes Act for the purpose of 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 are contained in subpart 2743 of this chapter.

[44 FR 43471, July 25, 1979, as amended at 57 FR 32732, July 23, 1992]

§ 2740.0-9 Information collection.

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The collection of information contained in part 2740 of Group 2700 has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0012. This information will be used to determine the suitability of public lands for lease and/or disposal to States or their political subdivisions, and to nonprofit corporations and associations, for recreational and public purposes. Responses are required to obtain benefits in accordance with the Recreation and Public Purposes Act.

Public reporting burden for this information is estimated to average 47 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, should be sent to the Division of Information Resources Management (770), Bureau of Land Management, 1849 C Street NW., Washington, DC 20240; and the Paperwork Reduction Project (1004–0012), Office of Management and Budget, Washington, DC 20503.

[57 FR 32732, July 23, 1992]

Subpart 2741—Recreation and Public Purposes Act: Requirements

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§ 2741.1 Lands subject to disposition.

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(a) The act is applicable to any public lands except (1) lands withdrawn or reserved for national forests, national parks and monuments, and national wildlife refuges, (2) Indian lands and lands set aside or held for use by or for the benefit of Indians, Aleuts and Eskimos, and (3) lands which have been acquired for specific purposes.

(b) Revested Oregon and California Railroad grant lands and reconveyed Coos Bay Wagon Road grant lands may only be leased to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations.

(c) Section 211 of the Federal Land Policy and Management Act of 1976 does not apply to public lands within the National Forest System, defined in the Act of August 17, 1974 (16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System and the National Wild and Scenic Rivers System.

[44 FR 43472, July 25, 1979]

§ 2741.2 Qualified applicants.

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Applications for any recreational or public purpose may be filed by States, Federal and State instrumentalities and political subdivisions, including counties and municipalities, and nonprofit associations and nonprofit corporations that, by their articles of incorporation or other authority, are authorized to acquire land.

[44 FR 43472, July 25, 1979]

§ 2741.3 Preapplication consultation.

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(a) Potential applicants should contact the appropriate District Office of the Bureau of Land Management well in advance of the anticipated submission of an application. Early consultation is needed to familiarize a potential applicant with management responsibilities and terms and conditions which may be required in a lease or patent.

(b) Any information furnished by the applicant in connection with preapplication activity or use, which he/she requests not be disclosed, shall be protected to the extent consistent with the Freedom of Information Act (5 U.S.C. 552).

(c) Dependent upon the magnitude and/or public interest associated with 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.

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(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]

§ 2741.5 Guidelines for conveyances and leases under the act.

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(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.

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(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.

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(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.

(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.

[44 FR 43472, July 25, 1979. Redesignated at 51 FR 50300, Dec. 10, 1985, and amended at 50 FR 50301, Dec. 10, 1985; 65 FR 70112, Nov. 21, 2000]

§ 2741.8 Price.

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(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.

(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.

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(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 revert 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

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

§ 2742.1 Lands subject to disposition.

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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]

§ 2742.2 Qualifications of applicants.

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States and their political subdivisions are qualified applicants.

§ 2742.3 Survey requirement.

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(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.

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(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.

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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

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

§ 2743.1 Applicable regulations.

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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.

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(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;

(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.

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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.

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(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 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.

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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.

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- (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.

Group 2800—Use; Rights-of-Way