



**4310-EJ**

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**36 CFR Part 14**

**[NPS-WASO-24690; PPWOVPADU0/PPMPRLE1Y.Y00000]**

**RIN 1024-AE42**

**Rights of Way; Removal of Outdated Reference**

**AGENCY:** National Park Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule removes an outdated reference to a document establishing environmental criteria for electric transmissions lines that is no longer used by the National Park Service to evaluate applications for right-of-way permits.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Jay Calhoun, NPS Division of Jurisdiction, Regulations, and Special Park Uses, (202) 513-7112, [john\\_calhoun@nps.gov](mailto:john_calhoun@nps.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 11, 1980, the National Park Service (NPS) promulgated regulations at 36 CFR part 14 that provide a process for the review, consideration, and approval or disapproval of requests for rights-of-way across all areas of the National Park System. 45 FR 47092. Section 14.78 describes the process for filing applications for rights-of-way for power transmission lines. Paragraph (b)(6)(i) of this section requires that the applicant include a detailed description of the

environmental impact of the project that provides information about the impact of the project on airspace, air and water quality, scenic and aesthetic features, historical and archeological features, and wildlife, fish, and marine life. Paragraph (b)(6)(ii) requires that the proposed site, design, and construction of the project be consistent with a document entitled the “Environmental Criteria for Electric Transmission Lines.” This document was published by the Department of the Interior and the Department of Agriculture in 1970 and revised in 1979. This document is no longer available and no longer used by the NPS to evaluate applications for right-of-way permits for power transmission lines.

This rule removes paragraph (b)(6)(ii) from § 14.78 because the reference to the environmental criteria document is obsolete and outdated. The NPS will continue to evaluate applications for rights-of-way for power transmission lines in accordance the other provisions in subpart F of 36 CFR part 14. This rule also updates the authority line for 36 CFR part 14 to reflect the 2014 recodification of former 16 U.S.C. 5 and 79 into 54 U.S.C. 100902.

### **Compliance with Other Laws, Executive Orders, and Department Policy**

#### *Regulatory Planning and Review (Executive Orders 12866 and 13563).*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these

approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that agencies must base regulations on the best available science and the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771).*

This rule is an E.O. 13771 deregulatory action because it will have costs less than zero. This rule will remove an outdated requirement. This will reduce the potential for confusion and may result in a more efficient application process for those applying for rights of way for power transmission lines across NPS-administered lands. This rule meets the goals of E.O. 13771 because the regulatory requirement being removed is outdated and unnecessary.

*Small Business Regulatory Enforcement Fairness Act (SBREFA).*

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more;
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions;
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Administrative Procedure Act (Notice of Proposed Rulemaking).*

We recognize that under 5 U.S.C. 553(b) and (c) notice of proposed rules ordinarily must be published in the Federal Register and the agency must give interested parties an opportunity to submit their views and comments. We have determined under 5 U.S.C. 553(b) and 318 DM HB 5.3, however, that notice and public comment for this rule are not required. We find good

cause to treat notice and comment as unnecessary. As discussed above, the document entitled “Environmental Criteria for Electric Transmission Lines” is no longer used by the NPS to evaluate applications for right-of-way permits for power transmission lines. The current reference in 36 CFR 14.78(b)(6)(ii) is potentially confusing for right-of-way applicants and its removal will simply reflect how the NPS currently processes applications. This correction will not benefit from public comment, and further delaying it is contrary to the public interest.

We also recognize that rules ordinarily do not become effective until at least 30 days after their publication in the Federal Register. We have determined, however, that good cause exists for all the rule to be effective immediately upon publication for the reasons stated above.

*Unfunded Mandates Reform Act (UMRA).*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule does not impose requirements on other agencies or governments. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

*Takings (Executive Order 12630).*

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

*Federalism (Executive Order 13132).*

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement.

A Federalism summary impact statement is not required.

*Civil Justice Reform (Executive Order 12988).*

This rule complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring agencies to review all regulations to eliminate errors and ambiguity and write them to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring agencies to write all regulations in clear language and contain clear legal standards.

*Consultation with Indian Tribes (Executive Order 13175 and Department Policy).*

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined it has no substantial direct effects on federally recognized Indian tribes and consultation under the Department's tribal consultation policy is not required.

*Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.).*

This rule does not contain new collections of information that require approval by the Office of Management and Budget under the PRA. The rule does not impose new recordkeeping or reporting requirements on State, tribal, or local governments; individuals; businesses; or organizations. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act (NEPA).*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required. We have determined the rule is categorically excluded under 43 CFR 46.210(i) because it is administrative, legal, and technical in nature. We also have determined the rule does not involve

any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

*Effects on the Energy Supply (Executive Order 13211).*

This rule is not a significant energy action under the definition in Executive Order 13211.

A Statement of Energy Effects is not required.

**Drafting Information:** The primary author of this regulation was Jay Calhoun, Regulations Program Specialist, National Park Service.

#### **List of Subjects in 36 CFR Part 14**

Electric power, Highways and roads, Public lands-rights-of-way.

In consideration of the foregoing, the National Park Service amends 36 CFR part 14 as follows:

#### **PART 14—RIGHTS-OF-WAY**

1. The authority citation for part 14 is revised to read as follows:

**Authority:** 54 U.S.C. 100902; 23 U.S.C. 317.

#### **§ 14.78 [Amended]**

2. In § 14.78, remove and reserve paragraph (b)(6)(ii).

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Jason Larrabee,  
Principal Deputy Assistant Secretary  
for Fish and Wildlife and Parks,  
exercising the authority of the Assistant Secretary for Fish and Wildlife and Parks.  
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