

tion and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this subchapter condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

(Pub. L. 94-579, title V, §506, Oct. 21, 1976, 90 Stat. 2780.)

#### Executive Documents

##### TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

#### § 1767. Rights-of-way for Federal departments and agencies

(a) The Secretary concerned may provide under applicable provisions of this subchapter for the use of any department or agency of the United States a right-of-way over, upon, under or through the land administered by him, subject to such terms and conditions as he may impose.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

(Pub. L. 94-579, title V, §507, Oct. 21, 1976, 90 Stat. 2781.)

#### Executive Documents

##### TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

#### § 1768. Conveyance of lands covered by right-of-way; terms and conditions

If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576; 30 U.S.C. 185), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this subchapter will be carried out, the terms and conditions of the right-of-way complied with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

(Pub. L. 94-579, title V, §508, Oct. 21, 1976, 90 Stat. 2781.)

#### Editorial Notes

##### REFERENCES IN TEXT

Act of November 16, 1973, referred to in text, is Pub. L. 93-153, Nov. 16, 1973, 87 Stat. 576. For complete classification of this Act to the Code, see Tables.

#### Executive Documents

##### TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

#### § 1769. Existing right-of-way or right-of-use unaffected; exceptions; rights-of-way for railroad and appurtenant communication facilities; applicability of existing terms and conditions

(a) Nothing in this subchapter shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this subchapter.

(b) When the Secretary concerned issues a right-of-way under this subchapter for a railroad and appurtenant communication facilities in connection with a realignment of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this subchapter, provide in the new right-of-way the same terms and conditions as applied to the portion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this subchapter.

(Pub. L. 94-579, title V, §509, Oct. 21, 1976, 90 Stat. 2781.)

#### Executive Documents

##### TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

#### § 1770. Applicability of provisions to other Federal laws

##### (a) Right-of-way

Effective on and after October 21, 1976, no right-of-way for the purposes listed in this subchapter shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this subchapter: *Provided*, That nothing in this subchapter shall be construed as affecting or modifying the provisions of sections 532 to 538 of title 16 and in the event