

§ 36.2

within the State of Alaska which is administered by the Bureau of Land Management (BLM), Fish and Wildlife Service (FWS) or National Park Service (NPS):

(1) A transportation or utility system (TUS) is any portion of the route of the system within any of the aforementioned areas and the system is not one which the Department or agency having jurisdiction over the unit or area is establishing incident to its management of the unit or area;

(2) Access to inholdings within these areas, as well as within public lands administered by the BLM designated as wilderness study areas;

(3) Special access within these areas, as well as within public lands administered by the BLM designated as wilderness study areas;

(4) Temporary access within the aforementioned areas, as well as the National Petroleum Reserve in Alaska and public lands administered by the BLM designated as wilderness study areas or managed to maintain the wilderness character or potential thereof.

(b) Except as specifically provided in this part, applicable law shall apply with respect to the authorization and administration of TUSs.

§ 36.2 Definitions.

As used in this part, the term:

(a) *ANILCA* means the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Pub. L. 96-487).

(b) *Applicable law* means a law or regulation of general applicability, other than title XI of ANILCA, under which a Federal department or agency has jurisdiction to grant an authorization (including but not limited to, a right-of-way permit, license, lease or certificate) without which a TUS cannot, in whole or in part, be established or operated.

(c) *Applicant* means an individual, partnership, corporation, association or other business entity, and a Federal, State or local government entity including a municipal corporation submitting an application under this part.

(d) *Appropriate Federal agency* means a Federal agency (or the agency official to whom the authority has been delegated) that has jurisdiction to grant any authorization without which

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a TUS cannot, in whole or in part, be established or operated.

(e) *Area* means a CSU, National Recreation Area, or National Conservation Area in Alaska administered by the NPS, the FWS or the BLM.

(f) *Compatible with the purposes for which the unit was established* means that the system will not significantly interfere with or detract from the purposes for which the area was established.

(g) *Conservation System Unit (CSU)* means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System or the National Wilderness Preservation System administered by the NPS, the FWS or the BLM.

(h) *Economically feasible and prudent alternative route* means a route either within or outside an area that is based on sound engineering practices and is economically practicable, but does not necessarily mean the least costly alternative route.

(i) *Improved right-of-ways* means routes which are of a permanent nature and would involve substantial alteration of the terrain or vegetation such as grading and graveling of surfaces or other such construction. Trail right-of-ways which are annually or periodically marked, brushed, or broken for off-road vehicles are excluded.

(j) *Incident to its management of the unit or area* means a type of TUS which is used directly or indirectly in support of authorized activities, and which is built by or for the Federal agency which has jurisdiction over the area.

(k) *Other system of general transportation* means private and commercial transportation of passengers and/or shipment of goods or materials.

(l) *Public values* means those values relating to the purposes for which the area was established as defined by the enabling legislation for the area.

(m) *Related structures and facilities* means those structures, facilities and right-of-ways which are reasonably and minimally necessary for the construction, operation and maintenance of a TUS, and which are listed as part of the TUS on the consolidated application form, Standard Form 299, "Application for Transportation and Utility

Systems and Facilities on Federal Lands” (SF 299).

(n) *Right-of-way permit* means a right-of-way permit, lease, license, certificate or other authorization for all or part of a TUS in an area.

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

(p) *Transportation or utility system* (TUS) means any of the systems listed in paragraphs (p) (1) through (7) of this section, if a portion of the route of the system will be within an area and the system is not one that the Department or agency having jurisdiction over the area is establishing incident to its management of the area. The systems shall include related structures and facilities.

(1) Canals, ditches, flumes, laterals, pipes, pipelines, tunnels and other systems for the transportation of water.

(2) Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels and any refined product produced therefrom.

(3) Pipelines, slurry and emulsion systems and conveyor belts for the transportation of solid materials.

(4) Systems for the transmission and distribution of electric energy.

(5) Systems for transmission or reception of radio, television, telephone, telegraph and other electronic signals and other means of communication.

(6) Improved rights-of-way for snowmachines, air cushion vehicles and other all-terrain vehicles.

(7) Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks and other systems of general transportation.

[51 FR 31629, Sept. 4, 1986, as amended at 62 FR 52510, Oct. 8, 1997]

§ 36.3 Preapplication.

(a) Anyone interested in obtaining approval of a TUS is encouraged to establish early contact with each appropriate Federal agency so that filing procedures and details may be discussed, resource concerns and potential constraints may be identified, the proposal may be considered in agency planning, preapplication activities may be discussed and processing of an application may be tentatively scheduled.

(b) Reasonable preapplication activities in areas shall be permitted following a determination by the appropriate Federal agency that the activities are necessary to obtain information for filing the SF 299, that the activities would not cause significant or permanent damage to the values for which the area was established or unreasonably interfere with other authorized uses or activities and that it would not significantly restrict subsistence uses. In areas administered by the NPS or the FWS, a permit shall be obtained from the appropriate agency prior to engaging in any preapplication activities. Prior to approval and issuance of such a permit, the appropriate Federal agencies must find that the proposed preapplication activity is compatible with the purposes for which the area was established.

§ 36.4 Filing of application.

(a) A SF 299, which may be obtained from an appropriate Federal agency, shall be completed by the applicant according to the instructions on the form. The form shall be filed on the same day (except in compliance with paragraph (c) of this section) with each appropriate Federal agency from which an authorization, such as a permit, license, lease or certificate is required for the TUS. Filing with any appropriate Interior agency in Alaska shall be considered to be a filing with all of its agencies. Any filing fee required by the appropriate Federal agency pursuant to applicable law must be paid at the time of filing.

(b) Prior to filing the SF 299, the applicant shall determine whether additional information to that requested on the form is required by the appropriate Federal agencies. If so, the applicant shall file the additional information as an attachment to the SF 299.

(c) When, because of separate filing points, an applicant is not able to file with each appropriate Federal agency on the same day, the applicant shall file all applications as soon as possible. All applications must be filed within a 15 calendar day period. For purposes of the time requirements provided for in this part, the application shall not be considered to have been filed until the