

Office of the Secretary, Interior

§ 36.4

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

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last appropriate Federal agency receives the application. The lead agency, determined pursuant to §36.5(a), shall determine the date of filing or that the application was not filed within the 15 day period and inform all appropriate Federal agencies.

(d) The information collection requirements contained in these regulations have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1024-0026 and 1004-0060. The information collected by the appropriate Federal agency will be used to determine whether or not to issue a permit to obtain a benefit. A response is required to obtain or retain a benefit.

§36.5 Application review.

(a) When there is more than one appropriate Federal agency, the Federal agency having management jurisdiction over the longest lineal portion of the right-of-way requested in the TUS application shall be the lead agency for the purpose of coordinating appropriate Federal agency actions in the review and processing of the SF 299, as well as for the purpose of compliance with the provisions of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*

(1) By agreement among the appropriate Federal agencies, a different Federal agency may be designated the lead agency for any or all parts of the review, processing or NEPA compliance.

(2) Upon identification of the lead agency, other involved agencies will provide assistance as requested by the lead agency.

(b) Upon receipt of an application, the lead agency will review it and determine the filing date pursuant to §36.4. If it is determined that the applicant has not met the 15 calendar day filing deadline, pursuant to §36.4(c) of this part, the lead agency shall notify each appropriate Federal agency to return the application to the applicant without further action.

(c) Within 60 days of the date of filing, each appropriate Federal agency shall inform the applicant and the lead agency, in writing, whether the application on its face:

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(1) Contains the required information; or

(2) Is insufficient, together with a specific listing of the additional information the applicant must submit.

(d) When the application is insufficient, the applicant must furnish the specific information requested within 30 days of receipt of notification of deficiency:

(1) If the applicant needs more time to obtain information, additional time may be granted by the appropriate Federal agency upon request of the applicant, provided the applicant agrees that the application filing date will change to the date of filing of the specific additional information.

(2) Unless extended pursuant to the provisions of paragraph (d)(1) of this section, failure of the applicant to respond within the 30 day period will result in return of the application without further action.

(3) The lead agency shall keep all appropriate Federal agencies informed of actions occurring under paragraphs (d) (1) and (2) of this section, in order that such agencies may note their application records accordingly.

(e) Within 30 days of the receipt of additional information requested by the appropriate Federal agency, the applicant shall be notified in writing whether the supplemental information is sufficient.

(1) If the applicant fails to provide all the requested information, the application shall be rejected and returned to the applicant along with a list of the specific deficiencies.

(2) When the applicant furnishes the additional information, the application will be reinstated, and it will be considered filed as of the date the final supplemental information is actually received by the appropriate Federal agency.

(3) The lead agency shall notify appropriate Federal agencies of any final rejection under paragraph (e)(1) of this section.

§36.6 NEPA compliance and lead agency.

(a) The provisions of NEPA and the Council for Environmental Quality regulations (40 CFR parts 1500-1508) will be