

Subpart B—Rights-of-Way General Regulations

§ 29.21 Definitions.

(a) *Secretary* means Secretary of the Interior or his authorized representatives acting under delegated authority.

(b) *Service* means U.S. Fish and Wildlife Service.

(c) *Regional director* means the regional director for one of the Service's seven regions.

(d) *Project Manager* means the officer in charge of the land under administration by the U.S. Fish and Wildlife Service.

(e) *National Wildlife Refuge System land* means lands and waters, or interests therein, administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas.

(f) *Other lands* means all other lands, or interests therein, and waters administered by the Secretary through the U.S. Fish and Wildlife Service which are not included in National Wildlife Refuge System lands, e.g., administrative sites, research stations, fish hatcheries, and fishery research stations.

(g) *Compatible* means that the requested right-of-way or use will not interfere with or detract from the purposes for which units of the National Wildlife Refuge System are established. The term “inconsistent” in section 28(b)(1) of the Mineral Leasing Act of 1920, as amended by Pub. L. 93-153, shall be deemed to mean a use that is *not compatible*, as *compatible* is defined herein.

(h) *Department* means U.S. Department of the Interior unless otherwise specified.

[34 FR 19907, Dec. 19, 1969, as amended at 39 FR 5490, Feb. 13, 1974; 42 FR 43917, Aug. 31, 1977; 44 FR 42976, July 23, 1979; 48 FR 31655, July 11, 1983; 51 FR 7575, Mar. 5, 1986]

§ 29.21-1 Purpose and scope.

The regulations in this subpart prescribe the procedures for filing applications and the terms and conditions under which rights-of-way over and across the lands administered by the

U.S. Fish and Wildlife Service may be granted.

(a) *National Wildlife Refuge System lands*. Applications for all forms of rights-of-way on or over such lands shall be submitted under authority of Pub. L. 89-669, (80 Stat. 926; 16 U.S.C. 668dd) as amended, or for oil and gas pipelines under section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185) as amended by Pub. L. 93-153, following application procedures set out in § 29.21-2. No right-of-way will be approved unless it is determined by the Regional Director to be compatible. See § 29.21-8 for additional requirements applicable to rights-of-way for electric power transmission lines and § 29.21-9 for additional requirements applicable to rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

(b) *National Wildlife Refuge System lands—easement interest*. Applications for all forms of rights-of-way across lands in which the United States owns only an easement interest may be submitted to the Regional Director in letter form. No map exhibit is required, however, the affected land should be described in the letter or shown on a map sketch. If the requested right-of-way will not adversely affect the United States' interest, the Regional Director may issue a letter stating that the interest of the United States to the right-of-way easement would not be affected provided there would be no objection to a right-of-way by the fee owner. If the interest of the United States will be affected, application for the right-of-way must be submitted in accordance with procedures set out in § 29.21-2.

(c) *Other lands outside the National Wildlife Refuge System*. Rights-of-way on or over other lands will be granted in accordance with controlling authorities cited in 43 CFR part 2800, or for oil and gas pipelines under section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185) as amended by Pub. L. 93-153. See § 29.21-8 for additional requirements applicable to rights-of-way for electric power transmission lines and § 29.21-9 for additional requirements applicable to

rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any other refined product produced therefrom. Applications will be submitted in accordance with procedures set out in § 29.21-2.

[34 FR 19907, Dec. 19, 1969, as amended at 36 FR 2402, Feb. 4, 1971; 39 FR 5490, Feb. 13, 1974; 42 FR 43917, Aug. 31, 1977; 44 FR 42976, July 23, 1979; 48 FR 31655, July 11, 1983]

§ 29.21-2 Application procedures.

(a) *Application.* (1) No special form of application is required. The application should state the purpose for which the right-of-way is being requested together with the length, width on each side of the centerline, and the estimated acreage. Applications, including exhibits, shall be filed in triplicate with the Regional Director for the region in which the State is located. A list of States in each region and the addresses of the Regional Directors are contained in paragraph (c) of this section.

(2)(i) All applications filed pursuant to this subpart in the name of individuals, corporations, or associations must be accompanied by a nonreturnable application fee. No application fee will be required of (A) State of local governments or agencies or instrumentalities thereof except as to rights-of-way, easements or permits under section 28 of the Mineral Leasing Act of 1920, as amended by Pub. L. 93-153, or (B) Federal Government agencies.

(ii) Application fees will be in accordance with the following schedule:

(A) For linear facilities (e.g., powerlines, pipelines, roads, etc.).

Length	Payment
Less than 5 miles	\$50 per mile or fraction thereof.
5 to 20 miles	\$500.
20 miles and over	\$500 for each 20 miles or fraction thereof.

(B) For nonlinear facilities, \$250 for each 40 acres or fraction thereof.

(C) Where an application includes both linear and nonlinear facilities, payment will be the aggregate of amounts under paragraphs (a)(2)(ii)(A) and (B) of this section.

(D) When an application is received, the Regional Director will estimate the costs expected to be incurred in proc-

essing the application. If the estimated costs exceed the payments under paragraph (a)(2)(ii) (A), (B), or (C) of this section by an amount greater than the cost of maintaining actual cost records, the Regional Director shall require the applicant to make periodic payments in advance of the incurrence of such costs by the United States except for the last payment which will reflect final reimbursement for actual costs of the United States in processing the application. Overpayments may be refunded or adjusted by the Regional Director as appropriate.

(E) The Regional Director shall, on request by an applicant or prospective applicant, give an estimate based on the best available cost information, of the costs which would be incurred by the United States in processing an application. However, reimbursement will not be limited to the estimate of the Regional Director if the actual costs exceed the estimate. Prospective applicants are encouraged to consult with the Regional Director in advance of filing an application in regard to probable costs and other requirements.

(3)(i) By accepting an easement or permit under this subpart, the holder agrees to reimburse the United States for reasonable costs incurred by the Fish and Wildlife Service in monitoring the construction, operation, maintenance, and termination of facilities within or adjacent to the easement or permit area. No reimbursement of monitoring costs will be required of (A) State or local governments or agencies or instrumentalities thereof except as to right-of-way, easements, or permits granted under section 28 of the Mineral Leasing Act of 1920 as amended by Pub. L. 93-153, or (B) Federal Government agencies.

(ii) Within 60 days of the issuance of an easement or permit the holder must submit a nonreturnable payment in accordance with the following:

(A) For linear facilities e.g., powerlines, pipelines, roads, etc.).

Length	Payment
Less than 5 miles	\$20 per mile or fraction thereof.
5 to 20 miles	\$200.
20 miles and over	\$200 for each 20 miles or fraction thereof.