

## Department of Energy

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*Provided*, That the Deputy Administrator for Defense Programs determines that such shipment is required to be made by aircraft either because:

(1) The delay resulting from using ground transportation methods would have serious adverse impact upon a national security requirement;

(2) Safeguards or safety considerations dictate the use of air transportation;

(3) The nature of the item to be shipped necessitates the use of air transportation in order to avoid possible damage which may be expected from other available transportation environments; or

(4) The nature of the item being shipped necessitates rapid shipment by air in order to preserve the chemical, physical, or isotopic properties of the item.

The Deputy Administrator for Defense Programs may also authorize air shipments falling within paragraph (a)(2) of this section in all cases since the inherent time delays of surface transportation for such shipments are considered unacceptable. The Deputy Administrator for Defense Programs may also authorize air shipments falling within paragraph (a)(3) of this section in cases where failure to make shipments by air could jeopardize the national security of the United States.

[42 FR 48332, Sept. 23, 1977, as amended at 71 FR 68734, Nov. 28, 2006]

### § 871.2 Public health and safety exemption.

The Deputy Administrator for Defense Programs may authorize, on a case-by-case basis, DOE air shipments of plutonium where the Deputy Administrator determines that rapid shipment by air is required to respond to an emergency situation involving possible loss of life, serious personal injuries, considerable property damage, or other significant threat to the public health and safety.

[42 FR 48332, Sept. 23, 1977, as amended at 71 FR 68734, Nov. 28, 2006]

### § 871.3 Records.

Determinations made by the Deputy Administrator for Defense Programs pursuant to these rules shall be mat-

ters of record. Such authorizations shall be reported to the Administrator of the National Nuclear Security Administration within twenty-four hours after authorization is granted.

[42 FR 48332, Sept. 23, 1977, as amended at 71 FR 68734, Nov. 28, 2006]

### § 871.4 Limitation on redelegation of authority.

The authority delegated in this part may not be redelegated without the prior approval of the Administrator of the National Nuclear Security Administration.

[42 FR 48332, Sept. 23, 1977, as amended at 71 FR 68734, Nov. 28, 2006]

## PART 900—COORDINATION OF FEDERAL AUTHORIZATIONS FOR ELECTRIC TRANSMISSION FACILITIES

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AUTHORITY: 16 U.S.C. 824p(h).

SOURCE: 73 FR 54459, Sept. 19, 2008, unless otherwise noted.

### § 900.1 Purpose.

This part provides a process for the timely coordination of Federal authorizations for proposed transmission facilities pursuant to section 216(h) of the Federal Power Act (FPA). The regulations provide for the compilation of a single environmental review document in order to coordinate all permitting and environmental reviews required to be issued under Federal law. They also provide an opportunity for non-Federal entities to coordinate their own separate non-Federal permitting and environmental reviews with that of the permitting entities.

### § 900.2 Applicability.

(a) DOE accepts requests for coordination of Federal authorizations under this part only for facilities that are used for the transmission of electric

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energy in interstate commerce for the sale of electric energy at wholesale.

(b) DOE does not accept requests for coordination under this part of Federal authorizations for electric transmission facilities located within the Electric Reliability Council of Texas interconnection.

(c) DOE does not accept requests for coordination under this part from persons that have submitted an application to the Federal Energy Regulatory Commission (FERC) for issuance of a permit for construction or modification of a transmission facility under 18 CFR 50.6 or have initiated pre-filing procedures under 18 CFR 50.5.

(d) DOE, in exercising its responsibilities under this part, will consult regularly with FERC, electric reliability organizations, and transmission organizations approved by FERC.

#### § 900.3 Definitions.

As used in this part:

*Applicant* means a person or entity who is seeking a Federal authorization.

*Director* means the Director of Permitting and Siting in the Office of Electricity Delivery and Energy Reliability within DOE.

*DOE* means the U.S. Department of Energy.

*Federal authorization* means any authorization required under Federal law to site a transmission facility, including permits, special use authorizations, certifications, opinions, or other approvals. This term includes authorizations issued by Federal and non-Federal entities that are responsible for issuing authorizations under Federal law for a transmission facility.

*FERC* means the Federal Energy Regulatory Commission.

*FPA* means the Federal Power Act (16 U.S.C. 791–828c).

*Indian tribe* has the same meaning as provided in 25 U.S.C. 450b(e).

*NEPA* means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*)

*Non-federal entity* means Indian tribes, multistate entities, and State agencies.

*Permitting entity* means any Federal or non-Federal entity that is responsible for issuing Federal authorizations.

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*Request for coordination* means a request to DOE for coordination of Federal authorizations under this part.

*Requester* means an applicant that is seeking DOE coordination of Federal authorizations under this part.

*Single Environmental Review Document* means the total material that the permitting entities develop—with the lead agency for preparing the NEPA document being primarily responsible—and that DOE shall assemble, along with any other material considered necessary and made available by DOE, in order to fulfill Federal obligations for preparing NEPA compliance documents and all other analyses required to comply with all environmental, cultural and historic preservation statutes and regulations under Federal law. This information shall be available to the applicant, all permitting entities, DOE, and all Indian tribes, multistate entities, and State agencies that have their own separate non-Federal permitting and environmental reviews.

#### § 900.4 Pre-Application mechanism.

(a) An applicant, or prospective applicant, for a Federal authorization seeking information from a permitting entity pursuant to 16 U.S.C. 824p(h)(4)(C) must request information pursuant to the terms specified in this section with a permitting entity, and notify the Director of the request to the permitting entity.

(b) Any request for information filed under this section shall specify in sufficient detail the information sought from the permitting entity and shall contain sufficient information for the permitting entity to provide the requested information pursuant to 16 U.S.C. 824p(h)(4)(C).

(c) Within 60 days of receipt of such a request for information, a permitting entity shall provide, to the extent permissible under existing law, information concerning the request to the applicant, or prospective applicant, and the Director.

#### § 900.5 Request for coordination.

(a) A requester shall file a request for coordination with the Director.

(b) The request shall contain:

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(1) The exact legal name of the requester; its principal place of business; whether the requester is an individual, partnership, corporation, or other entity; the State laws under which the requester is organized or authorized; and the name, title, and mailing address of the person or persons to whom communications concerning the request for coordination are to be addressed;

(2) A concise general description of the proposed transmission facility sufficient to explain its scope and purpose, including:

(i) The voltage and type of current (alternating or direct);

(ii) The length of the transmission line;

(iii) The design and height of the support structures;

(iv) The proposed route (including the beginning and ending nodes of the transmission project, and a brief geographical description of the proposed route);

(v) A map of the proposed route (if available);

(vi) Any ancillary facilities associated with the proposed route;

(vii) The proposed dates for the beginning and completion of construction and the commencement of service;

(viii) Whether the applicant for a Federal authorization of the proposed transmission facility has submitted an interconnection request with a transmission organization or electric reliability organization approved by FERC; and

(ix) The anticipated length of time the proposed transmission facility will be in service;

(3) A list of all permitting entities from which Federal authorizations pertaining to the proposed transmission facility are needed, including the docket numbers of pending applications with permitting entities;

(4) A list of non-Federal entities that have their own separate non-Federal permitting and environmental reviews pertaining to the proposed transmission facility, including the docket numbers of relevant applications;

(5) A signed statement to the Director that the requester has served a copy of the request for coordination to all permitting entities, and all non-Federal entities that have their own

separate non-Federal permitting and environmental reviews; and

(6) A statement by the requester certifying that it has informed the non-Federal entities that have their own separate non-Federal permitting and environmental reviews pertaining to the proposed transmission facility that they may coordinate their permitting and environmental reviews with DOE and the permitting entities pursuant to section 16 U.S.C. 824p(h)(4)(A). The statement should list the specific persons served and other pertinent contact information at all permitting entities and all non-Federal entities.

(c) The written request for coordination may be filed by mail or hand delivery with the Director at 1000 Independence Avenue, SW., Washington, DC 20585, or electronically in MS Word or PDF formats at *SEC216h@hq.doe.gov*. Electronic filing is DOE's preferred method. If filing by hand or mail, DOE requests that an electronic copy be filed as well.

(d) Upon receipt, DOE will post and make publicly available at *http://www.oe.energy.gov/fed\_transmission.htm* each request for coordination and any subsequent correspondence and material filed with DOE in connection with the request, except for information exempt from disclosure under the Freedom of Information Act.

### § 900.6 Coordination of permitting and related environmental reviews.

(a)(1) Upon receipt of a request for coordination, DOE, as the coordinator of all applicable Federal authorizations and related environmental reviews, and the permitting entities shall jointly determine the appropriate level of coordination required, and, where applicable, the appropriate permitting entity to be the lead agency for preparing NEPA compliance documents, including all documents required to support a final agency decision, and all other analyses used as the basis for all decisions on a proposed transmission facility under Federal law. Designation of the lead agency for preparing NEPA documents shall be in compliance with regulations issued by the Council on Environmental Quality at 40 CFR 1500 *et seq.*

(2) Non-Federal entities that have their own separate non-Federal permitting and environmental reviews may elect to participate in the coordination process under paragraph (a)(2) of this section.

(b)(1) DOE as the agency coordinating federal authorizations shall establish, maintain, and utilize, to the extent practicable and in compliance with Federal law, a single location to store and display (electronically if practicable) all of the information assembled in order to fulfill Federal obligations for preparing NEPA compliance documents and all other analyses required to comply with all environmental and cultural statutes and regulations under Federal law. This information shall be available to the applicant, all permitting entities, DOE, and all Indian tribes, multistate entities, and State agencies that have their own separate non-Federal permitting and environmental reviews.

(2) DOE shall establish and maintain, to the extent practicable and in compliance with Federal law, a single location to store and display the information utilized by the permitting entities as the basis for their decisions on the proposed project under Federal law, including all environmental, cultural protection and natural resource protection statutes and regulations.

(3) In coordinating the preparation of a single environmental review document, DOE will rely upon the permitting entities, as appropriate, to ensure compliance with all applicable requirements of Federal law.

(4) The single environmental review document shall be made available to all permitting entities for making their agency decisions in order to ensure that each permitting entity's environmental review is in compliance with the statutory mandates and regulatory requirements applicable to action by that permitting entity.

## PART 903—POWER AND TRANSMISSION RATES

### Subpart A—Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations

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AUTHORITY: Secs. 301(b), 302(a), and 644 of Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq.*); sec. 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); the Reclamation Act of 1902 (43 U.S.C. 372 *et seq.*), as amended and supplemented by subsequent enactments, particularly sec. 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and the Acts specifically applicable to individual projects or power systems.

SOURCE: 50 FR 37837, Sept. 18, 1985, unless otherwise noted.

### Subpart A—Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations

#### § 903.1 Purpose and scope; application.

(a) Except as otherwise provided herein, these regulations establish procedures for the development of power and transmission rates by the Administrators of the Alaska, Southeastern, Southwestern, and Western Area Power Administrations; for the providing of opportunities for interested members of the public to participate in the development of such rates; for the confirmation, approval, and placement in