

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

- a. Request cooperating agency status in FERC's process.
  - b. Cooperate with FERC early in the process in the planning, environmental analysis, and documentation for the proposal.
  - c. Ensure the process and documentation are adequate (FSM 1950 and FSH 1909.15) for Forest Service use in issuing a decision.
  - d. Actively coordinate the environmental analysis and decision with FERC with the goal of having the Forest Service right-of-way decision consistent with the FERC decision.
3. For natural gas pipelines under the jurisdiction of FERC the following applies:
- a. The oil and gas pipeline procedures of FSM 2726.31 apply to natural gas pipelines. Inasmuch as the Congressional oversight process (30 U.S.C. 185(w)(2)) applies to the right-of-way authorization issued under the Mineral Leasing Act, the Forest Service or BLM, as appropriate, not FERC, ensures such oversight contacts.
  - b. The coordination with BLM is the same as set out in FSM 2726.31a.
  - c. The applicable direction concerning pipeline authorizations is in FSM 2726.31b through 2726.31e, 2726.32, and 2726.33.
  - d. As noted in FSM 2726.31f, a pipeline under the jurisdiction of FERC is already regulated as a common carrier, so the common carrier provisions of the Mineral Leasing Act do not apply (30 U.S.C. 185(r)(3)(A)).

**2726.34a - Interagency Agreement for Processing Interstate Natural Gas Pipeline Proposals**

The Department of Agriculture is one of 10 Federal departments or agencies that is a signatory to the May 2002 “Interagency Agreement on Early Coordination of Required Environmental and Historic Preservation Reviews Conducted in Conjunction with the Issuance of Authorizations to Construct and Operate Interstate Natural Gas Pipelines Certificated by the Federal Energy Regulatory Commission” (Agreement) (FSM 1537.11). Follow the provisions of the Agreement and administrative procedures in this section when a proposal is submitted to construct an interstate natural gas pipeline facility on National Forest System (NFS) lands that is subject to the Federal Energy Regulatory Commission’s (FERC) siting authority under the Natural Gas Act of 1938 (15 U.S.C. 717 et seq.).

1. Objective. The objective of the Agreement is to encourage concurrent reviews, minimize duplicative processes, and shorten the cumulative processing time in evaluating applications and making decisions for interstate natural gas pipeline projects.

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

2. Federal Energy Regulatory Commission Filing Procedures. The FERC has prepared a reference paper (ex. 01) describing the FERC's "Traditional Filing Process" and the "NEPA Pre-Filing Process" as procedures to follow when responding to proposals for interstate natural gas pipeline projects. Proponents may use either of these two procedures for a project. However, the FERC is encouraging proponents to use the NEPA Pre-Filing Process which they must request and have approved in advance by the FERC. The appropriate Forest Service officer should, during early discussions about a proposed project, ask the proponent which of these two processes they intend to pursue when they file their application with the FERC. This information is useful to the Forest Service in determining when in the process the agency will become involved and for allocating time and resources needed to fulfill the Forest Service's role as a cooperating agency, as defined in the Council on Environmental Quality's regulations implementing the National Environmental Policy Act of 1968 (NEPA) (42 U.S.C. 4321 et. seq.).

Additional information about the FERC's Pre-Filing Process is found at the FERC's World Wide Web/Internet site at <http://www.ferc.gov/help/processes/flow/lng-1-text.asp>.

3. Proponent Contacts. A proponent for an interstate natural gas pipeline project may make contact with landowners, Forest Service officers, and other Federal, State, and local governmental officials about a proposed project before FERC's staff involvement or knowledge of the proposal. To effect the processing efficiencies of the Agreement, Forest Service officers shall work closely with a proponent during these initial inquiries and be responsive to requests for available information that might benefit the proponent in shaping their proposal. The information produced may include landownership and status maps, Forest land and resource management plan information (maps, prescriptions, standards, and so forth), existing and designated utility corridors, special management area designations or prescriptions, public uses, and other existing special uses that might be affected by the project. As provided for in paragraph 2, the Forest Service officer should ask the proponent which of the two filing procedures the proponent intends to use in filing their application with the FERC.

4. Federal Energy Regulatory Commission as Lead Agency. The FERC shall be the lead Federal agency responsible for complying with the provisions of NEPA and other applicable laws and regulations for most projects subject to the provisions of the Agreement. When a proponent chooses the FERC's Traditional Filing Process, the FERC assigns an environmental project manager after the proponent files their application. When a proponent chooses the NEPA Pre-Filing Process, the FERC assigns an environmental project manager before the application is filed.

Under both the Traditional Filing and the NEPA Pre-Filing processes, the FERC is responsible for:

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

- a. Coordinating cooperating agencies' efforts during consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531-1536, 1538-1540) and the Magnuson-Stevens Fishery Conservation and Management Act of 1996.
  - b. Coordinating cooperating agencies' efforts during actions to ensure project compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. 470 et. seq.), including consultation with the appropriate State Historic Preservation Officer, Tribal Historic Preservation Officer if applicable, Indian Tribes, and so forth.
  - c. Identifying the environmental project manager assigned to the case who will act as the FERC's primary contact.
  - d. Identifying which of the FERC's filing procedures are being followed for the project.
  - e. Requesting the appropriate Federal agency(ies) to participate in processing the case as a cooperating agency(ies).
  - f. Scheduling a coordination meeting during which the FERC, in consultation with the cooperating agency(ies), shall develop and commit to a schedule for processing the case.
5. **Jurisdiction and Issuance of Authorizations.** As the location and specifications of a proposed project become more certain, the Forest Service officer shall identify and inform the proponent and the FERC as to which Federal land management agency has the responsibility to issue the right-of-way grant to use and occupy affected NFS lands, and the name of the authorized officer who has the authority to issue the grant. This notification is required under both of the FERC's filing procedures.
- a. **Proposals Involving Lands Managed by More Than One Federal Agency.** The Department of the Interior is responsible for issuing the right-of-way grant for projects that occupy Federal lands administered by more than one Federal agency. In most cases, this authority has been delegated to the Bureau of Land Management (BLM).

When the Department of the Interior or the BLM is the entity responsible for issuing the right-of-way grant, the Forest Service shall identify the Forest Service officer from the lead Forest Service unit who is responsible during the early coordination stage to work with the appropriate Department of the Interior or BLM office, to review the project and to designate a project manager.

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

b. Proposals Involving National Forest System Lands as the Only Federal Land. The Forest Service is responsible for issuing the right-of-way authorization when the only Federal land that will be occupied is NFS land. In this situation, the Forest Service shall identify to the proponent the Forest Service authorized officer with the delegated authority to issue the authorization for the proposed project. For projects that cross more than one National Forest in the same Region, the authorized officer shall be either the regional forester, or delegated to the forest supervisor of a designated lead Forest. For inter-Regional projects, the authorized officer shall be either the regional forester of the designated lead region, or delegated to a forest supervisor agreed upon among the regional foresters consistent with the direction in FSM 2704.32.

It is the responsibility of the authorized officer to request the proponent to submit their proposal in writing and to work with the proponent to ensure that the proposal is developed so that it may be accepted as an application.

6. Forest Service Role as a Cooperating Agency. When contacted by the FERC that a proposed project will use and occupy NFS land, the Forest Service officer acting either as a deciding officer (para. 5b) or as the line officer representing the lead Forest Service unit (para. 5a) shall respond in a letter to the FERC that the Forest Service shall:

- a. Coordinate and cooperate with the FERC and other cooperating Federal agencies involved in the project.
- b. Assist in the development of a single environmental analysis adequate in scope to address issues and concerns associated with NFS lands and resources.
- c. Assist in the development of a detailed schedule that provides sufficient time to:
  - (1) Collect information and complete initial surveys and studies.
  - (2) Solicit and evaluate internal and external comments.
  - (3) Conduct an environmental analysis of the impacts associated with the construction, operation, maintenance, and termination of all proposed right-of-way facilities, including the location of temporary use areas and ancillary facilities.
  - (4) Review and write reports.
  - (5) Amend or revise a forest land and resource management plan if necessary to accommodate the proposed project.
  - (6) Respond to and process administrative appeals of a Forest Service decision (if applicable).

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

- (7) Prepare authorizations, certificates, plans of development, and so forth.
- d. Provide the name, title, address, and telephone number of the authorized officer who is the deciding officer (para. 5b) or the line officer of the lead Forest Service unit (para. 5b) and the project manager or primary point of contact for processing the proposal or application.
- e. State the Forest Service's intent to recover from the proponent the agency's costs to process the proposal through either a Cost Recovery Agreement (CRA) between the Forest Service and the proponent or as part of a CRA between the BLM and the proponent.
- f. Identify readily available land and resource information relative to the proposed project, if not previously provided, including, but not limited to:
- (1) The current Forest land and resource management plan's management direction that may affect the proposed project including land use allocations, corridor designations in proximity to the proposed route, and standards and guides or management prescriptions, and other existing studies, data, and information concerning the lands and resources along the proposed route.
  - (2) The disclosure of existing uses that could be impacted by the proposed project such as the owners and authorization holders of facilities along the proposed routes.
  - (3) The disclosure of known or anticipated concerns of the agency, landowners, the public, and so forth regarding the proposed project and ways to mitigate those concerns.

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

**2726.34a - Exhibit 01**

**PROCESS FOR THE ENVIRONMENTAL  
AND HISTORIC PRESERVATION REVIEW OF  
PROPOSED INTERSTATE NATURAL GAS FACILITIES**

**Federal Energy Regulatory Commission  
Office of Energy Projects  
Division of Gas – Environment and Engineering**

In May 2002, the “Interagency Agreement (IA) on Early Coordination of Required Environmental and Historic Preservation Reviews Conducted in Conjunction with the Issuance of Authorizations to Construct and Operate Interstate Natural Gas Pipelines Certificated by the Federal Energy Regulatory Commission (FERC)” was signed by the FERC and other nine other federal agencies (signatory agencies).

In order to facilitate the coordination between the FERC and the other agencies, the FERC staff developed this document to:

- Inform federal, state, and local agencies (participating agencies) about the basic procedures for the two processing options available to project proponents for the types of projects covered by the IA, with the FERC as the lead federal agency;
- Serve as a supplement to each signatory agency’s internal direction on implementing the IA;
- Ensure that all participating agencies have a clear and common understanding of the applicable FERC procedures, and the FERC’s expectations of project proponents and each participating agency; and
- Describe how each of the participating agencies can become engaged in the environmental and historic preservation reviews of proposals and applications for interstate natural gas projects.

The FERC is responsible for authorizing the siting, construction, and operation of interstate natural gas pipelines, natural gas storage fields, and the liquefied natural gas (LNG) facilities pursuant to sections 3 and 7 of the Natural Gas Act of 1938 (NGA), as amended. Virtually all applications to the FERC for interstate natural gas projects require some level of coordination with one or more federal agencies to satisfy the FERC’s requirements for environmental review under the National Environmental Policy Act (NEPA), the Endangered Species Act, the National Historic Preservation Act, and the Magnuson-Stevens Act.

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

**2726.34a - Exhibit 01--Continued**

The May 2002 Interagency Agreement (IA) applies to those projects where the FERC would normally prepare an environmental assessment (EA) or an environmental impact statement (EIS) pursuant to its siting authority under the NGA. The IA provides a framework designed to expedite and streamline environmental and historic preservation reviews that must be conducted in conjunction with the processing of proposals and applications for these projects. Smaller projects can be constructed under blanket-type or automatic authority, or may qualify as categorical exclusions which do not require the FERC to prepare an EA or an EIS.<sup>1</sup>

**PROPOSALS AND APPLICATIONS FOR NEW FACILITIES**

Project proponents seeking authorizations from the FERC under sections 3 or 7 of the NGA have a choice, subject to the FERC's approval, of one of two procedures:

- A. The "Traditional Filing Process"; or
- B. The recently-adopted "NEPA Pre-Filing Process"

Both processes require the project proponent to begin working as soon as possible with the relevant participating agencies to enable them to identify resources and begin their analysis of the project, including identifying any cost recovery procedures.

**A. The Traditional Filing Process**

In the Traditional Filing Process, the project proponent, not the FERC, makes the first contacts with the participating agencies. The project proponent normally contacts the relevant agencies seeking information to determine the feasibility of building and operating the proposed facilities within an identified project area. The project proponent may contact agency staff informally by phone, or make contact in a written request for information. It is also common for the project proponent to file right-of-way applications with other participating agencies prior to filing an application with the FERC. Some participating agencies may spend considerable time providing data to the project proponent, reviewing possible corridors and alternatives, and working with the project proponent to select a route that avoids or minimizes known resource conflicts.

For most large projects, project proponents hold one or more pre-filing meetings with the FERC staff to obtain guidance regarding the required information to meet the FERC's filing requirements, as well as advice on what the project proponent can do to help ensure efficient processing of the application by the FERC. The project proponent may or may not have already contacted the appropriate participating agencies to discuss potential issues prior to a pre-filing meeting with the FERC.

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

**2726.34a - Exhibit 01--Continued**

Regardless of whether or not the project proponent contacts the FERC prior to filing its application, under the Traditional Filing Process, the FERC establishes contact with other participating agencies after the application is filed. This first contact generally occurs in conjunction with the FERC's issuance of a Notice of Intent (NOI) to Prepare an EA or EIS, and may be oral or written. The NOI constitutes the beginning of the environmental review process; it contains a brief description of the proposal; a request for participating agencies to identify ("scope") issues and comment on the proposal; a request for cooperating agencies; and contact information with details regarding phone numbers, mail and website addresses. The scoping process is conducted to identify issues, and to identify means of resolving conflicts, and avoiding or mitigating adverse effects. As discussed in the IA, this early point in the process is where the signatory agencies begin to work collaboratively to complete the required review process as expeditiously as feasible.

The key difference between the Traditional Filing Process and the NEPA Pre- Filing Process (described below) is that in the Traditional process the environmental analysis, including scoping, does not begin until after the project proponent files its application with the FERC. Thus, there is often little interaction between the FERC, the project proponent, and other relevant agencies. The result of this is that interagency coordination is deferred until later in the process.

**B. The NEPA Pre-Filing Process**

The FERC developed the NEPA Pre-Filing Process as a mechanism to identify and resolve issues at the earliest stages of project development by involving the participating agencies and the public earlier in the process. While the NEPA Pre-Filing Process is a voluntary process, available at the request of the project proponent, it is subject to the FERC's approval. The FERC strongly encourages project proponents to avail themselves of the benefits and efficiencies to be gained from increased public involvement and early issue resolution.

Not unlike the Traditional Filing Process, in the NEPA Pre-Filing Process, a participating agency may first become aware of a project through a contact by the project proponent. The project proponent is responsible for asking agencies, other than the FERC, to participate in the NEPA Pre-filing Process. When asked to participate, each participating agency reviews of the project, examines its resources and program goals, and then determines whether it is willing and available to participate in the NEPA Pre-Filing Process. A key consideration for some federal land management agencies' participation in the NEPA Pre-Filing Process is the project proponent's willingness to file a preliminary right-of-way application and establish a cost recovery account to fund agency participation (for example, the Bureau of Land Management and the Forest Service).



**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

**2726.34a - Exhibit 01--Continued**

After the project proponent ascertains the willingness of the other agencies to participate in the NEPA Pre-filing Process, it must send a request to the FERC describing why the project proponent wants to use the process, any work done to date, and plans for public involvement. Based on this information, the FERC must then determine whether pre-filing coordination is likely to be successful.

If the FERC approves a project proponent's request to use the NEPA Pre-Filing Process, the project is assigned a Docket Number with a "PF" prefix (e.g., PF01-01) which serves as the identifier for placing all relevant correspondence in the FERC's public record for that project. The FERC then notifies the participating agencies by telephone or in writing that the project proponent's NEPA Pre-Filing request has been approved. The FERC will also discuss the agencies' participation in a planning or informational meeting with the project proponent to discuss land and resource issues and concerns. The FERC and the participating agencies may consult regarding the agencies' ability to commit to a pre-filing time frame and a schedule established by the FERC. Most of the activities described in the IA regarding the NEPA Pre-Filing Process take place much sooner than they would otherwise be conducted in the Traditional Filing Process.

The FERC asks each participating agency to designate a primary contact for the project, and to devote the resources needed to commit to the schedule for processing the proposal. Similarly, the FERC identifies a project manager for each case. The reviews and schedules of all the agencies participating in the NEPA Pre-Filing Process will run concurrently, rather than sequentially, as is often the case in the Traditional Filing Process.

The signatory agencies have agreed in the IA to work with each other, and with other entities as appropriate, to ensure that timely decisions are made and that the responsibilities of each agency are met. The signatory agencies are also expected to provide the information and expertise to conduct the reviews in a timely manner, consistent with the established schedule. Other responsibilities of the signatory agencies in the IA include:

- Identifying each agency's role and responsibilities;
- Identifying significant issues, or other administrative or land use/land designation barriers;
- Providing available data and recommendations; and
- Assisting in the drafting of NEPA documents, and related activities.

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

**2726.34a - Exhibit 01--Continued**

**TIMELINE COMPARISON**

The following discusses the typical timeline for a proposed project, highlighting some of the differences in activity and timing that might occur during the Traditional Filing Process, in comparison to what might occur during those same blocks of time during the NEPA Pre-Filing Process.

**Months 0 - 5:**

During this initial stage of any project, the project proponent is actively developing and marketing its proposal. Exploratory requests and planning activities are initiated solely by the project proponent. There is little difference between the Traditional and the NEPA Pre-Filing Processes during this time period.

The FERC staff has only very limited knowledge of the project at this stage, based on articles in the trade press, or through informal meetings with the project proponent. At this point, the FERC would not assign any resources to review or evaluate the project proponent's proposal.

As the project proponent develops a study of potential rights-of-way, the participating agencies, landowners, and the general public may be contacted by the project proponent to inform all interested parties of its plans. A project proponent may contact a participating agency with requests for information, such as land ownership patterns, land status, and other available resource data or studies, including requests for copies of documents such as land management plans, existing studies, corridor designations, etc.

It is near the end of this phase that the project proponent may contact federal land management agencies about filing right-of-way applications with and establish cost recovery accounts.

**Months 5 - 12:**

During this stage, in the Traditional Filing Process, a project proponent is continuing to develop its project plans, and is beginning to identify a preferred route (and alternatives). As required surveys are started, federal, State and local land management agencies, and landowners are contacted. The FERC staff becomes much more aware of the project at this point, but there is no requirement that the project proponent notify the FERC prior to filing an application. The FERC typically does not devote significant resources to the project during this time. Likewise, other participating agencies with permitting authority would not be expected to devote significant time or resources toward evaluating or addressing a proposal during this phase.

**FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 - SPECIAL USES ADMINISTRATION**

**2726.34a - Exhibit 01--Continued**

With the NEPA Pre-Filing Process, the FERC staff would begin to devote significant resources to addressing the proposal and working with the project proponent as much as 8 months prior to the filing of an application at the FERC. The FERC staff will make contact with the project proponent and the participating agencies at the earliest possible point to initiate scoping activities and begin the environmental analysis.

It is during this early period of early notification and contact with the interested parties, the development of shortened timelines and schedules, that the benefits of the NEPA Pre-Filing Process are most evident. However, participating agencies should be aware that at this point the project proponent may not have as much specific information about its proposal as it would have under the Traditional Filing Process, after an application has already been submitted to the FERC.

**Months 12 - 20:**

Using the Traditional Filing Process, the project proponent prepares its environmental reports and assembles its application for filing with the FERC during this period. After the filing of the application, the FERC notifies the public of the receipt of the application, conducts the necessary scoping, identifies and resolves issues, prepares and issues the NEPA document, then issues an Order (equivalent to a Record of Decision) approving the project. For a project requiring an EIS, this process can take 14 to 16 months.

With the NEPA Pre-Filing Process, the frontloading of the scoping, environmental analysis, and initial documentation of that analysis, makes it possible for the FERC staff, in cooperation with the participating agencies, to finalize and issue a Draft EIS shortly after an application is filed (approximately 2 to 3 months after filing of the application). As a result, a final environmental document and Order can be issued by the FERC in 5 to 7 months.

<sup>1</sup> Most existing interstate natural gas companies hold Blanket Certificates from the FERC that allow them to construct facilities if they meet certain environmental standards and project cost limitations (see CFR 18, sections 157.203 and 157.205) without further Commission review or approval. Consultation with agencies is still required for land use authorizations and environmental consultations because other agencies may have their own permit requirements and may require separate NEPA analysis. Although these types of projects are not covered by the IA, the companies may approach signatory agencies seeking input for environmental review and approval.