

Bureau of Land Management, Interior

§ 2808.3-1

the National Environmental Policy Act and other statutes; and 3 or more field examinations are required.

§ 2808.2-2 Category determination.

(a) The authorized officer shall determine the appropriate category and collect the required application processing fee pursuant to §§ 2808.3-1 and 2808.5 of this title before processing an application. A record of the authorized officer's category determination shall be made and given to the applicant. This determination is a final decision for purposes of appeal under § 2804.1 of this title. Where an appeal is filed, actions pending decision on appeal shall be in accordance with § 2808.6 of this title.

(b) During the processing of an application, the authorized officer may change a category determination to place an application in Category V at any time it is determined that the application requires the preparation of an environmental impact statement. A record of change in category determination under this paragraph shall be made and furnished to the applicant. The revised determination is appealable in the same manner as an original category determination under paragraph (a) of this section. No other changes of category determination shall be permitted.

§ 2808.3 Fees and payments.

§ 2808.3-1 Application fees.

(a) The fee by category for processing an application for a right-of-way or temporary use permit is:

Category	Fee
I	\$125
II	300
III	550
IV	925
V	¹

¹ As required.

(b) Where the amount submitted by the applicant under paragraph (a) of this section exceeds the amount of the required fee determined by the authorized officer, the excess shall be refunded. If requested in writing by the applicant, the authorized officer may apply all or part of any such refund to the grant monitoring fee required

under § 2808.4 of this title or to the rental payment required by § 2803.1-2 of this title.

(c) Upon a determination that an application falls under Category V:

- (1) The authorized officer shall:
 - (i) Complete a preliminary scoping of the issues involved;
 - (ii) Prepare a preliminary work plan;
 - (iii) Develop a preliminary financial plan, estimating the actual costs to be incurred by the United States in the processing of the application; and
 - (iv) Discuss funding availability, options for cost reimbursement (i.e., a determination of actual costs under section 304(b) of the Act, paying all actual costs, or selecting the 1 percent ceiling), and information to be submitted by the applicant, including construction costs and other financial information.

(2) An applicant/holder may submit a written analysis of the estimated actual cost showing specific monetary value considerations, public benefits, public services, or other data or information which would support a finding that an application for a right-of-way grant or temporary use permit qualified for a reduction or waiver of cost reimbursement under section 303(b) of the Act or § 2808.5 of this title. If the applicant elects a cost analysis under this paragraph, the provisions of paragraph (f) of this section shall not apply.

(d) The authorized officer shall discuss the preliminary plans and data and verify the information that may be submitted under paragraph (c) of this section by the applicant. The applicant is encouraged to do all or part of any special study or analysis required in connection with the processing of the application to standards established by the authorized officer.

(e) After coordination with the applicant as required by paragraph (d) of this section, the authorized officer shall develop final scoping, work and financial plans which reflect any work the applicant agrees to do and complete a final estimate of the amount of the actual costs to be reimbursed by the applicant, giving consideration to the factors set forth in section 304(b) of the Act.

(f) An applicant may elect to waive consideration of reasonable costs under

paragraph (e) of this section and either: (1) Agree to pay all actual costs incurred by the United States in processing the application and monitoring the grant or temporary use permit; or (2) pay the actual costs of processing the application and monitoring the right-of-way grant up to the amount estimated by the authorized officer to equal 1 percent of the applicant's planned costs of construction of the project on the public lands for which a right-of-way grant is sought. Under this alternative, the applicant shall not be responsible for actual costs exceeding 1 percent of the estimated cost of constructing the proposed facilities on public lands. The request for a waiver shall be in writing and filed with the authorized officer.

(g) The applicant shall reimburse the United States for the applicant's share of costs, as determined under paragraphs (e) and (f) of this section, before the grant or permit shall issue.

(h) Where a State Director grants a reduction or waiver of cost reimbursement under the provisions of paragraph (e) of this section and/or § 2808.5 of this title or where the reimbursable costs of processing an application are determined to exceed 1 percent of the cost of construction of the facilities under paragraph (f) of this section, the necessary funding shall be available either through the Bureau's appropriation process or otherwise made available for the processing of the application or such processing shall not proceed.

(i) The authorized officer shall provide the applicant with a written determination of the reasonable costs to be reimbursed by the applicant or holder and those that will be funded by the United States under paragraphs (e) and (f) of this section and § 2808.5 of this title. This determination is a final decision for purposes of appeal under § 2804.1 of this title. Where an appeal is filed, actions pending decision on appeal shall be in accordance with § 2808.6 of this title.

§ 2808.3-2 Periodic advance payments.

(a) The authorized officer may periodically estimate the reasonable costs expected to be incurred by the United States for specific work periods in processing an application determined

to be in Category V or monitoring the right-of-way grant or temporary use permit under the provisions of § 2808.3-1 (e) through (f) of this title and shall notify the applicant of the estimated amount to be reimbursed for the period and the applicant shall make payment of such estimated reimbursable costs prior to the incurring of such costs by the United States.

(b) If the payments required by paragraph (a) of this section exceed the actual costs incurred by the United States, the authorized officer shall adjust the next billing to reflect the overpayment, or make a refund from applicable funds under the authority of 43 U.S.C. 1734. An applicant shall not set off or otherwise deduct any debt due it or any sum claimed to be owed it by the United States without the prior written approval of the authorized officer.

(c) The authorized officer may re-estimate the actual costs determined under § 2808.3-1 (e) through (g) of this title at any time it is determined that a change warranting a re-estimate occurs. An appeal of a re-estimate shall be treated in the same manner as an original estimate made under § 2808.3-1(e) of this title.

(d) Before issuance of a right-of-way grant or temporary use permit, an applicant shall pay such additional amounts as are necessary to reimburse the United States in full for any costs incurred, but not yet paid under § 2808.3-1(h) of this title.

§ 2808.3-3 Costs incurred for a withdrawn or denied application.

(a) An applicant whose application is denied is liable for any costs incurred by the United States in processing the application. Those amounts that have not been paid are due within 30 days of the receipt of a bill from the authorized officer identifying the amount due.

(b) An applicant who withdraws an application before a grant or temporary use permit is issued is liable for all costs incurred by the United States in processing the application up to the date the authorized officer receives the written notice of withdrawal, and for