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Attention: Lands—Special Uses,
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Re: Document Number 2026-07408, 91 FR 20398

Subject: Comments on Information Collection; SF-299 (OMB Number: 0596-0249)

The following comments are submitted to ensure that the extension of the SF-299 information collection aligns with the Forest Service's statutory obligation to protect National Forest System (NFS) resources and complies with the requirements of 36 CFR Part 251, Subpart B.

I. Whether the collection of information is necessary for the proper performance of the functions of the Agency.

The collection of detailed information via the SF-299 is functionally necessary to prevent the "Nominal Effects" loophole found in § 251.50(e)(1) from being applied improperly. Without a standardized requirement for proponents to submit baseline ecological data, the Agency lacks the "practical utility" to determine if a project truly has nominal effects. Furthermore, under § 251.64, the Agency has maintained a "sole discretion" regarding reauthorizations. To exercise this discretion lawfully, the SF-299 must be used to collect updated environmental data for existing utility lines, ensuring they comply with current forest plans and the Clean Water Act, rather than allowing legacy infrastructure to be "grandfathered" in without new data.

The Service's 'discretion' to renew a permit is bounded by the law. The Service cannot legally know if a renewal is consistent with the law unless you use the SF-299 to gather current facts. Without those facts, any decision is a legal house of cards. Key legal vulnerabilities include:

- 1. The Hard Look Doctrine (NEPA).** Relying on an EIS from the 1970s or 80s means the data the USFS is relying on is stale. The agency must therefore supplement their environmental analysis because of significant new information and circumstances in the context of modern climate change, updated endangered species listing, and degraded watershed health documented in USFS watershed plans. Proceeding without new data analysis is a failure to take the mandatory "hard look."
- 2. A Direct Regulatory Mandate (Section 251.64(d)).**
Which states: "In reauthorizing existing uses... the authorized officer may modify the terms of the authorization to reflect any new requirements imposed by current Federal and State land use plans, laws, regulations... Appropriate environmental analysis must accompany the decision to reauthorize the special use." If the Agency reauthorizes a use

without "appropriate environmental analysis," it is violating its own regulations. Since "appropriate" is generally interpreted to mean "current and accurate," using an SF-299 that lacks updated data makes the resulting analysis resulting in a legally indefensible permit or authorization.

3. National Forest Management Act (NFMA).

The National Forest Management Act (NFMA) requires that every "occupancy and use" of National Forest System lands be consistent with the current Land and Resource Management Plan (Forest Plan). Forest Plans are updated every 15 years, sometimes even longer. A pipeline built under a 1980 Plan may be wildly inconsistent with a 2024 Plan that has stricter "Antidegradation" standards for water or new "Old Growth" protections. Without new data (via the SF-299), the Agency cannot prove "consistency." If an environmental group sues, the Agency cannot point to any evidence in the record showing the legacy line meets modern standards. "Grandfathering" essentially ignores the NFMA's consistency mandate.

4. Failing to Meet Arbitrary and Capricious Standard (APA).

The Administrative Procedure Act (APA) governs how agencies make decisions. For a decision to be lawful, the Service must, for example, "examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'" If the Forest Service reauthorizes a gas pipeline that has a history of leaks or sits in an area now known to be a high-risk landslide zone, but the Agency has no current data on those risks because it didn't ask for it in the SF-299. A court would likely find the decision "arbitrary and capricious" because the Agency "entirely failed to consider an important aspect of the problem." You cannot have a "rational connection" if you don't have the "facts."

5. Clean Water Act (CWA) Compliance.

The SF-299 is necessary not just for new projects, but for the reauthorization of legacy lines to ensure they meet modern Antidegradation and water quality standards. Section 401 of the Clean Water Act requires applicants for federal permits that may result in a discharge into navigable waters to provide a certification from the State or Tribe with Treatment as a State (TAS) status that the discharge will comply with water quality standards. Many legacy pipelines never received modern 401 certifications or are operating under certifications that didn't account for modern temperature or turbidity standards. Reauthorizing a permit without verifying compliance with current CWA standards (which requires updated data on stream crossings and sedimentation) could be a direct violation of the CWA.

II. The accuracy of the Agency's estimate of the burden.

The current estimate significantly underestimates the technical burden required for linear utility projects. Specifically, the implementation of § 251.56(h), which mandates an expedited 120-day review for powerline vegetation management and operating plans, creates an intense

administrative burden. If the SF-299 does not require high-quality, pre-vetted data at the time of application, the Agency is forced to perform "emergency" data gathering within that 120-day window. The burden estimate must be revised upward to account for the iterative technical correspondence required to bring a pipeline or transmission line application up to the "Agency-readiness" standard. Without a mandatory, data-heavy SF-299 submitted at the outset for all utilities, the "nominal effects" determination becomes arbitrary and capricious. Failure to use the SF-299 to update this data results in a 'reliance on a record that is no longer representative of the current environment,' which is a reversible error under the APA.

Underestimating the burden hours also artificially deflates the Cost Recovery Fees the Agency is mandated to collect under § 251.58, effectively subsidizing corporate utility applications by starving the Forest Service of the resources needed for a thorough environmental review. This underestimate is fiscally irresponsible and will contribute to our nation's debt.

III. Ways to enhance the quality, utility, and clarity of the information to be collected.

The utility of the SF-299 is currently hampered by vague definitions of "Vegetation Management" in § 251.51. To enhance clarity, the SF-299 should be amended to include:

- 1. Specific Clearing Metrics:** Require applicants to define the "Hazard Tree" criteria they will use (e.g., specific lean angles, percentage of canopy insect damage or species-specific rot indicators).
- 2. Physics-Based Data for Sag and Sway:**
Requiring clearance distances in the SF-299 be based on maximum sag and sway will prevent utilities from arbitrarily widening the corridor, also promoting multiple uses of the Forest Service.
- 3. Geospatial Integrity:** Mandate the submission of GIS-compatible data for the entire "Area of Influence," not just the right-of-way footprint, to allow for a "hard look" at habitat fragmentation.
- 4. Subsurface Data for Pipelines:** For gas and oil pipelines, the application must require geological "boring" logs to assess the risk of "frac-outs" or groundwater contamination during construction.
- 5. Leak Detection and Repair (LDAR) Plans:** For all pipeline applications, the SF-299 should require a specific LDAR protocol to be submitted as part of the 'Technical and Financial Capability' showing required by § 251.54(e)(5)."

IV. Ways to minimize the burden of the collection of information on respondents.

While we support electronic filing, the Forest Service must resist "streamlining" that reduces data quality. To minimize burden without sacrificing environmental integrity, the Agency should implement a "Pre-Application Data Portal." This would allow proponents to access the Agency's internal sensitive-species maps and watershed data before filing the SF-299. This "mechanical" improvement would allow applicants to "self-screen" and avoid proposing routes through high-

conflict areas, thereby reducing the need for costly supplemental information requests and environmental impact revisions later in the process.

Conclusion.

The Forest Service must recognize that the SF-299 is the substantive bedrock of its stewardship mandate, rather than a mere procedural formality. Extending this collection without revision allows legacy oil and gas pipelines and aging utility infrastructure to operate under a "legal house of cards" built on stale environmental data, risking violations of the NEPA "hard look" doctrine, the NFMA consistency mandate, and the APA's prohibition against arbitrary and capricious decision-making. To fulfill its statutory obligations and prevent permanent ecological degradation, the Agency must modernize the SF-299 to capture high-resolution technical data by soliciting specific hazard tree clearing metrics, mandatory leak detection protocols, and updated subsurface boring logs, at the outset of the application and reauthorization process. Strengthening this collection is the only way to ensure that industrial utility corridors comply with modern Clean Water Act and State and Tribal water quality standards, while ensuring the Agency accurately reflects and recovers the true administrative and environmental costs of these projects.