
**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

**PAPERWORK REDUCTION ACT REQUEST
SUPPORTING STATEMENT A**

**COMPETITIVE PROCESSES, TERMS, AND CONDITIONS FOR LEASING
PUBLIC LANDS FOR SOLAR AND WIND ENERGY DEVELOPMENT
(43 CFR PARTS 2800 AND 2880)**

OMB CONTROL NUMBER 1004-0206

Terms of Clearance: Not applicable. The Office of Management and Budget (OMB) provided no Terms of Clearance when it last approved the collections of information under this OMB Control Number (see OMB Notice of Action dated June 9, 2023).

Abstract: This control number enables the BLM to collect information that is necessary to authorize and manage rights-of-way for solar and wind energy, oil and gas pipelines, and electric transmission lines with a capacity of 100 Kilovolts (kV) or more. The Bureau of Land Management (BLM) is requesting revision of this control number to reflect proposed changes to the underlying regulations pertaining to renewable energy rents affecting solar and wind energy developments. The information collections and proposed changes are outlined below.

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The following provisions necessitate this information collection (IC):

1. Subchapter V of the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1761-1771):
 - Authorizes the BLM to issue rights-of-way on public lands for electric generation systems (including solar and wind energy generation systems);
 - Requires the BLM to prescribe certain terms and conditions;
 - Requires the holder of a right-of-way to pay in advance the fair market value thereof, as determined by the Secretary; and;
 - Authorizes the BLM to collect moneys for the Federal Government's reasonable costs in performing tasks to authorize right-of-way grants or leases, monitor construction and maintenance of rights-of-way, and terminate or extend granted rights-of-way.

2. Section 102(a)(9) of FLPMA (43 U.S.C. 1701(a)(9)) establishes a Federal policy of receiving fair market value for the use of the public lands and their resources.
3. Section 304 of FLPMA (43 U.S.C. 1734) authorizes the BLM to establish reasonable filing and service fees and reasonable charges, and commission with respect to applications and other documents relating to the public lands, and to change and abolish such fees, charges, and commissions.
4. Section 28 of the Mineral Leasing Act (30 U.S.C. 185) authorizes the BLM to issue rights-of-way on public lands for oil, natural gas, and other pipelines, and requires the BLM to prescribe certain terms and conditions and collect actual costs for expenses relating to processing right of way applications and monitoring the construction and maintenance of authorized projects.
5. The BLM's regulations at 43 CFR part 2800 pertain to rights-of-way for various types of facilities (including facilities for electric generation, electric transmission, and non-oil and gas pipelines) issued under the authority of the Federal Land Policy and Management Act (FLPMA).
6. The BLM's regulations at 43 CFR part 2880 pertain to rights-of-way for facilities (including oil and gas pipelines) issued under the authority of the Mineral Leasing Act (MLA).

Regulations at 43 CFR part 2800 require the use of Standard Form 299 (SF-299), Application for Transportation and Utility Systems and Facilities on Federal Lands, for right-of-way applications. OMB has approved the requirements associated SF-299 and has assigned control number 0596-0249 (expiration date: February 28, 2023) to those requirements. The U.S. Forest Service administers control number 0596-0249.

In contrast to the regulations at 43 CFR part 2800, the regulations at 43 CFR part 2880 allow, but do not require, the use of SF-299. In accordance with 43 CFR 2884.11, applicants for these categories of rights-of-way may use SF-299, or they may apply for these rights-of-way as part of an Application for Permit to Drill or Reenter (BLM Form 3160-3) or as part of a Sundry Notice and Report on Wells (BLM Form 3160-5). OMB has authorized the use of BLM Forms 3160-3 and 3160-5 under control number 1004-0137 (Onshore Oil and Gas Operations and Production).

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

This control number enables the BLM to collect information that is necessary to authorize and manage rights-of-way for solar and wind energy, pipelines, and electric transmission lines with a capacity of 100 Kilovolts (kV) or more.

As discussed above, some of the IC activities require the use of Standard Form 299 (SF-299), Application for Transportation and Utility Systems and Facilities on Federal Lands. OMB has approved SF-299 for use by the BLM and other Federal agencies under control number 0596-0249 (expires February 28, 2023). The U.S. Forest Service administers control number 0596-0249. After final approval by OMB of the burden estimates in this IC request, the BLM will provide the pertinent information to the U.S. Forest Service for inclusion in OMB Control Number 0596-0249.

Activities That Require SF-299

The following discussion describes the IC activities in this control number that require use of SF-299.

Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area (43 CFR 2804.12, 2804.25(c), 2804.26(a)(5), and 2804.30(g)); and

Application for an Electric Transmission Line with a Capacity of 100 kV or More (43 CFR 2804.12, 2804.25(c), and 2804.26(a)(5))

Section 2804.12(b) applies to the following types of applications:

- Solar and wind energy development grants outside any designated leasing area¹; and
- Electric transmission lines with a capacity of 100 kV or more.

Section 2804.30(g) authorizes only one applicant (*i.e.*, a “preferred applicant”) to apply for a solar or wind energy development grant for land outside any designated leasing area.

Section 2804.12(b) includes the following requirements for applications for a solar or wind energy development project outside a designated leasing area, and for applications for a transmission line project with a capacity of 100 kV or more:

- A discussion of all known potential resource conflicts with sensitive resources and values, including special designations or protections; and
- Applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts, if any.

Section 2804.12(b) also requires applicants to initiate early discussions with any grazing permittees that may be affected by the proposed project. This requirement stems from FLPMA Section 402(g) (43 U.S.C. 1752(g)) and a BLM grazing regulation (section 4110.4-2(b)) that require 2 years’ prior notice to grazing permittees and lessees before cancellation of their grazing privileges.

¹ In Resource Management Plans, the BLM has analyzed and identified “designated leasing areas” that are preferable for renewable energy development and are available for competitively issued leases.

In addition to the information listed at 43 CFR 2804.12(b), an application for a solar or wind project, or for a transmission line of at least 100 kV, must include the information listed at sections 2804.12(a)(1) through (a)(7).

Section 2804.25 provides that the BLM will notify an applicant upon receipt of an application and may require the applicant to submit additional information necessary to process the application (such as a POD or cultural resource surveys). As amended, section 2804.25(c) provides that, for solar or wind energy development projects, and transmission lines with a capacity of 100 kV or more, the applicant must commence any required resource surveys or inventories within 1 year of the request date, unless otherwise specified by the BLM. The amended regulation also authorizes an applicant to submit a request for an alternative requirement by showing good cause under section 2804.40.

Applications for solar or wind energy development outside any designated leasing area, but not applications for large-scale transmission lines, are subject to a requirement (at section 2804.12(c)(2)) to submit an “application filing fee” of \$15 per acre. As defined in an amendment to section 2801.5, an application filing fee is specific to solar and wind energy right-of-way applications. Section 2804.30(e)(4) provides that the BLM will refund the fee, except for the reasonable costs incurred on behalf of the applicant, if the applicant is not a successful bidder in the competitive process outlined in subpart 2804.

Section 2804.26(a)(5) provides authority allowing the BLM to deny an application for a right-of-way grant if the applicant does not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities within the right-of-way. Amendments to that provision list the following ways an applicant may demonstrate their financial and technical capability to construct, operate, maintain, and terminate a project:

- Documenting any previous successful experience in construction, operation, and maintenance of similar facilities on either public or non-public lands;
- Providing information on the availability of sufficient capitalization to carry out development, including the preliminary study stage of the project and the environmental review and clearance process; or
- Providing written copies of conditional commitments of Federal and other loan guarantees; confirmed power purchase agreements; engineering, procurement, and construction contracts; and supply contracts with credible third-party vendors for the manufacture or supply of key components for the project facilities.

General Description of a Proposed Project and Schedule for Submittal of a Plan of Development (43 CFR 2804.12(b)(1) and (b)(2))

Sections 2804.12(b)(1) and (b)(2) require applicants for a solar or wind development project outside a designated leasing area to submit the following information, using Form SF-299:

- A general description of the proposed project and a schedule for the submission of a Plan of Development (POD) conforming to the POD template at <http://www.blm.gov>;

- A discussion of all known potential resource conflicts with sensitive resources and values, including special designations or protections; and
- Proposals to avoid, minimize, and compensate for such resource conflicts, if any.

Application for an Energy Site-Specific Testing Grant (43 CFR 2804.12(a), 2804.30(g) and 2809.19(d))

Application for an Energy Project-Area Testing Grant (43 CFR 2804.12(a), 2804.30(g), and 2809.19(d)); and

Application for a Short-Term Grant (43 CFR 2804.12(a) and 2809.19(d))

Section 2804.12(a) addresses the general requirements of an application for a FLPMA right-of-way grant. Section 2804.30(g) authorizes only one applicant (*i.e.*, a “preferred applicant”) to apply for an energy project-area testing grant or an energy site-specific testing grant for land outside any designated leasing area. Section 2809.19(d) authorizes only one applicant (*i.e.*, the successful bidder in the competitive process outlined at subpart 2809) to apply for an energy project-area testing grant, an energy site-specific testing grant, or a short-term grant for land inside a designated leasing area.

Each of these grants is for 3 years or less, in accordance with section 2805.11(b)(2). All these applications must be submitted on SF-299. Applications for project-area grants (but not site-specific grants) are subject to a \$2 per-acre application filing fee in accordance with section 2804.12(c)(2). Applicants for short-term grants for other purposes (such as geotechnical testing and temporary land-disturbing activities) are subject to a processing fee in accordance with section 2804.1.

Request to Assign a Solar or Wind Energy Development Right-of-Way (43 CFR 2807.21)

Section 2807.21, as amended, provides for assignment, in whole or in part, of any right or interest in a grant or lease for a solar or wind development right-of-way. Actions that may require an assignment include the transfer by the holder (assignor) of any right or interest in the grant or lease to a third party (assignee) or any change in control transaction involving the grant holder or lease holder, including corporate mergers or acquisitions.

The proposed assignee must file an assignment application, using SF-299, and pay application and processing fees. No preliminary application review meetings and or public meetings are required.

The assignment application must include:

- Documentation that the assignor agrees to the assignment; and

- A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations.

***Environmental, Technical, and Financial Records, Reports, and Other Information
(43 CFR 2805.12(a)(15))***

Section 2805.12(a)(15) authorizes the BLM to require a holder of any type of right-of-way to provide, or give the BLM access to, any pertinent environmental, technical, and financial records, reports, and other information. The use of SF-299 is required. The BLM will use the information for monitoring and inspection activities.

***Application for Renewal of a Solar or Wind Energy Development Grant or Lease
(43 CFR 2805.14(g) and 2807.22)***

Section 2805.14(g) provides that a holder of a solar or wind energy development grant or lease may apply for renewal of that grant or lease in accordance with section 2807.22, which applies to renewals of both grants and leases.

Section 2807.22(c) provides that an application to renew a grant must include the same information, on SF-299, that is necessary for a new application. It also provides that processing fees, in accordance with section 2804.14, as amended, apply to these renewal applications.

Sections 2807.22(a) and (b) provide that an application for renewal of any right-of-way grant or lease, including a solar or wind energy development grant or lease, must be submitted at least 120 calendar days before the grant or lease expires. The application must show that the grantee or lessee is complying with the renewal terms and conditions (if any), with the other terms, conditions, and stipulations of the grant or lease, and with other applicable laws and regulations. The application also must explain why a renewal of the grant or lease is necessary.

***Request for Amendment, Assignment, or Other Change (FLPMA)
(43 CFR 2807.11(b) and (d)) and 2807.21)***

Section 2807.11(b) requires a holder of any type of right-of-way grant to contact the BLM to seek an amendment to the grant under section 2807.20 and obtain the BLM's approval before beginning any activity that is a "substantial deviation" from what is authorized.

Section 2807.11(d) requires contacting the BLM, with a request for an amendment to the pertinent right-of-way grant or lease, and prior approval whenever site-specific circumstances or conditions result in the need for changes to an approved right-of-way grant or lease, plan of development, site plan, mitigation measures, or construction, operation, or termination procedures that are not "substantial deviations."

Section 2807.21 authorizes assignment of a grant or leased with the BLM's approval. It also authorizes the BLM to require a grant or lease holder to file new or revised information in circumstances that include, but are not limited to:

- Transactions within the same corporate family;
- Changes in the holder's name only; and
- Changes in the holder's articles of incorporation.

A request for an amendment of a right-of-way, using SF-299, is required in cases of a substantial deviation (for example, a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, must be submitted to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay application and processing fees. In order to request a name change, the holder will be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee is required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change.

In all these cases, the BLM will use the information to monitor and inspect rights-of-way, and to maintain current data.

Activities That Do Not Require Any Form

Preliminary Application Review Meetings for a Large-Scale Right-of-Way (43 CFR 2804.12(b)(4))

“Preliminary application review meetings” are required after submission of an application for a large-scale right-of-way. A large-scale right-of-way is for solar or wind energy development outside a designated leasing area, or for a transmission line with a capacity of 100 kV or more.

Within 6 months from the date that the BLM receives the cost recovery fee for an application for a large-scale project, the applicant must schedule and hold at least two preliminary application review meetings.

In the first meeting, the BLM will collect information from the applicant to supplement the application on subjects such as the general project proposal. The BLM will also discuss with the applicant subjects such as the status of BLM land use planning for the lands involved, potential siting issues or concerns, potential environmental issues or concerns, potential alternative site locations, and the right-of-way application process.

In the second meeting, the applicant and the BLM will meet with appropriate Federal and State agencies and tribal and local governments to facilitate coordination of potential environmental and siting issues and concerns.

The applicant and the BLM may agree to hold additional preliminary application review meetings.

Application for Renewal of an Energy Project-Area Testing Grant or Other Short-Term Grant (43 CFR 2805.11(b)(2)(ii), 2805.14(h), and 2807.22)

Section 2805.11(b)(2)(ii) provides that holders of energy project-area testing grants may seek renewal of those grants. The initial term for such a grant is 3 years or less, with the option to renew for one additional 3-year period.

For other short-term grants, such as for geotechnical testing and temporary land-disturbing activities, the initial term is 3 years or less. Short-term grants include an option for renewal.

Section 2805.14(h) provides that applications to renew an energy project-area testing grant must include an energy development application submitted in accordance with section 2801.9(d)(2). Processing fees in accordance with section 2804.14, as amended, apply to these renewal applications.

Section 2807.22 provides that an application for renewal of any right-of-way grant or lease, including an energy project-area testing grant or a short-term grant, must be submitted at least 120 calendar days before the grant or lease expires. The application must show that the grantee or lessee is complying with the renewal terms and conditions (if any), with the other terms, conditions, and stipulations of the grant or lease, and with other applicable laws and regulations. The application also must explain why a renewal of the grant or lease is necessary.

Showing of Good Cause (43 CFR 2804.40 and 2805.12)

Under section 2804.40, an applicant for a FLPMA right-of-way grant who is unable to meet any of the requirements in subpart 2804 may request approval for an alternative requirement from the BLM. Any such request is not approved until the applicant receives BLM approval in writing. This type of request to the BLM must:

- (a) Show good cause for the applicant's inability to meet a requirement;
- (b) Suggest an alternative requirement and explain why that requirement is appropriate; and

(c) Be received in writing by the BLM in a timely manner, before the deadline to meet a particular requirement has passed.

The BLM will use the information to determine whether or not to apply an alternative requirement.

Other showings of good cause are authorized or may be required by section 2805.12, which requires due diligence in development of any right-of-way grant or lease. In accordance with section 2805.12(c)(6), the BLM will notify the holder before suspending or terminating a right-of-way for lack of due diligence. This notice will provide the holder with a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way. A showing of good cause will be required in response. That showing must include:

- Reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);
- The anticipated date for the completion of construction and evidence of progress toward the start or resumption of construction; and
- A request for extension of the timelines in the approved POD.

Section 2805.12(e), as amended, applies as soon as a right-of-way holder anticipates noncompliance with stipulation, term, or condition of the approved right-of-way grant or lease, or in the event of noncompliance with any such stipulation, term, or condition. In these circumstances, the holder must notify the BLM in writing and show good cause for the noncompliance, including an explanation of the reasons for the noncompliance.

In addition, the holder may request that the BLM consider alternative stipulations, terms, or conditions. Any request for an alternative stipulation, term, or condition must comply with applicable law in order to be considered. Any proposed alternative to applicable bonding requirements must provide the United States with adequate financial assurance for potential liabilities associated with the right-of-way grant or lease. Any such request is not approved until the holder receives BLM approval in writing.

Bonding Requirements (43 CFR 2805.20)

Section 2805.20 provides that the bond amount for projects other than a solar or wind energy lease under subpart 2809 (*i.e.*, inside a designated leasing area) will be determined based on the preparation of a reclamation cost estimate that includes the cost to the BLM to administer a reclamation contract and review it periodically for adequacy.

Section 2805.20(a)(5) provides that the reclamation cost estimate must include at minimum:

- Remediation of environmental liabilities such as use of hazardous materials waste and hazardous substances, herbicide use, the use of petroleum-based fluids, and dust control or soil stabilization materials;

- The decommissioning, removal, and proper disposal, as appropriate, of any improvements and facilities; and
- Interim and final reclamation, re-vegetation, recontouring, and soil stabilization.

Sections 2805.20(b) and 2805.20(c) identify specific bond requirements for solar and wind energy development respectively outside of designated leasing areas (DLAs). A holder of a solar or wind energy grant outside of a DLA will be required to submit a reclamation cost estimate to help the BLM determine the bond amount. For solar energy development grants outside of DLAs, the bond amount will be no less than \$10,000 per acre. For wind energy development grants outside of DLAs, the bond amount will be no less than \$10,000 per authorized turbine with a nameplate generating capacity of less than one Megawatt (MW), and no less than \$20,000 per authorized turbine with a nameplate generating capacity of one MW or greater.

Section 2805.20(d) separates site- and project-area testing authorization bond requirements from section 2805.20(c). Meteorological and other instrumentation facilities are required to be bonded at no less than \$2,000 per location. These bond amounts are the same as standard bond amounts for leases required under section 2809.18(e)(3).

Proposed Annual certified statement. (43 CFR 2806.52(b)(5)(i))

The proposed rule would require that by October of each year wind and solar grant or lease holders must submit to the BLM a certified statement identifying the next year's estimated energy generation on public lands and the prior year's actual energy generation on public lands. The BLM will determine the production MW capacity fee based on the certified statement provided. To prepare the annual certified statement, grant or lease holders will need to compile information based on the MW capacity fee as instructed in section 2806.

Nomination of a Parcel of Land Inside a Designated Leasing Area (43 CFR 2809.11)

Sections 2809.10 and 2809.11 authorize the BLM to offer land competitively inside a designated leasing area for solar or wind energy development on its own initiative. These regulations also authorize the BLM to solicit nominations for such development by publishing a notice in the *Federal Register*. In order to nominate a parcel under this process, the nominator must be qualified to hold a right-of-way under section 2803.10. After publication of a notice by the BLM, anyone meeting the qualifications may submit a nomination for a specific parcel of land to be developed for solar or wind energy. There is a fee of \$5 per acre for each nomination. The following information is required:

- The nominator's name and personal or business address;
- The legal land description; and
- A map of the nominated lands.

The BLM will use the information to communicate with the nominator and to determine whether or not to proceed with a competitive offer.

Expression of Interest in Parcel of Land Inside a Designated Leasing Area (43 CFR 2809.11(c))

Section 2809.11(c) authorizes the BLM to consider informal expressions of interest suggesting specific lands inside a designated leasing area to be included in a competitive offer. The expression of interest must include a description of the suggested lands and a rationale for their inclusion in a competitive offer. The information will assist the BLM in determining whether or not to proceed with a competitive offer.

Plan of Development for a Solar or Wind Energy Development Lease Inside a Designated Leasing Area (43 CFR 2809.18)

Section 2809.18(c) requires the holder of a lease for solar or wind energy development to submit a plan of development (POD) within 2 years of the lease issuance date. The POD must be consistent with the development schedule and other requirements in the POD template posted at <http://www.blm.gov>; and must address all pre-development and development activities.

Section 2809.18(d) requires the holder of a solar or wind energy development lease for land inside a designated leasing area to pay reasonable costs for the BLM or other Federal agencies to review and approve the POD and monitor the lease. To expedite review and monitoring, the holder may notify the BLM in writing of an intention to pay the full actual costs incurred by the BLM.

Request for Amendment, Assignment, or Other Change (MLA) (43 CFR 2886.12(b) and (d) and 43 CFR 2887.11)

Sections 2886.12 and 2887.11 pertain to holders of rights-of-way and temporary use permits authorized under the Mineral Leasing Act (MLA). A temporary use permit authorizes a holder of a MLA right-of-way to use land temporarily in order to construct, operate, maintain, or terminate a pipeline, or for purposes of environmental protection or public safety. See section 2881.12. The regulations require these holders to contact the BLM:

- Before engaging in any activity that is a “substantial deviation” from what is authorized;
- Whenever site-specific circumstances or conditions arise that result in the need for changes that are not substantial deviations;
- When the holder submits a certification of construction;
- Before assigning, in whole or in part, any right or interest in a grant or lease;

- Before any change in control transaction involving the grant- or lease- holder; and
- Before changing the name of a holder (*i.e.*, when the name change is not the result of an underlying change in control of the right-of-way).

A request for an amendment of a right-of-way or temporary use permit is required in cases of a substantial deviation (*e.g.*, a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, are required to be submitted to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay processing fees. In order to request a name change, the holder will be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee is required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change.

In all these cases, the BLM will use the information for monitoring and inspection purposes, and to maintain current data on rights-of-way.

Certification of Construction (43 CFR 2886.12(f))

A certification of construction is a document a holder of an MLA right-of-way must submit to the BLM after finishing construction of a facility, but before operations begin. The BLM will use the information to verify that the holder has constructed and tested the facility to ensure that it complies with the terms of the right-of-way and is in accordance with applicable Federal and State laws and regulations.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.**

SF-299 is electronically available to the public in fillable, printable format at: <http://www.gsa.gov/portal/forms/download/117318>.

A respondent who chooses to submit that form electronically may do so by scanning and then emailing it to the appropriate BLM office. Some of the required non-form information may be scanned or emailed as well. However, electronic submission of some other required non-form information might not be feasible due to the nature of the information. For example, electronic filing is inherently impossible for the preliminary application review meetings that are required by section 2804.12(b)(4) after an application for a large-scale right-of-way has been filed with the BLM. Another example may be some of the non-form information, such as maps and drawings, that are required as part of a Plan of Development in accordance with section 2809.18(c).

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

There is no duplication. The information in each collection activity is unique and is unsuitable for other uses. The BLM is not able to use or modify similar information because the responses in this collection are distinct, unrelated to each other, and specific to their individual proposed projects.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This IC potentially affects a substantial number of small entities. The BLM collects the minimum information that is necessary in order to issue and monitor rights-of-way for solar and wind energy and for other large-scale projects.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the BLM did not conduct the collection or conducts it less frequently, it would be unable to implement competitive procedures for solar and wind energy development and other large-scale projects.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * **requiring respondents to report information to the agency more often than quarterly;**
- * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- * **requiring respondents to submit more than an original and two copies of any document;**
- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * **in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

- * **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- * **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- * **requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances requiring the collection to be conducted in a manner described above.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The BLM published the proposed rule in the *Federal Register* providing interested parties and the general public 60 days to comment on the proposed changes to these regulations.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

Respondents do not receive any payment or gift.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Section 2805.12(a)(15) requires that a grant holder or lessee provide or make available, upon the BLM's request, any pertinent environmental, technical, and financial records for inspection and review. Any information marked confidential or proprietary would be kept

confidential to the extent allowable by law. The basis for this provision is Exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)), which authorizes Federal agencies to withhold from public disclosure “trade secrets and commercial or financial information obtained from a person and privileged or confidential.”

Under the Privacy Act, personally identifiable information is subject to a System of Records Notice: Land & Minerals Authorization Tracking System – Interior, LLM-32 (56 FR 5014 (February 7, 1991)).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Respondents are not required to answer questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- * **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

Table 12-1, below, shows the estimated hourly cost burdens for respondents. The mean hourly wages for Table 12-1 were determined using national Bureau of Labor Statistics data at: http://www.bls.gov/oes/current/oes_nat.htm. The benefits multiplier of 1.3 is supported by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

Table 12-1 - Estimated Hourly Cost

Position and Standard Occupation Code	Mean Hourly Wage	Total Mean Hourly Wage (Mean Hourly Wage x 1.3)
Engineers - SOC 17-2000	\$49.28	\$64.06

The following table itemizes the annual hour burdens and dollar equivalents for each IC activity.

Table 12-2 - Estimated Annual Hour Burdens

Collection of Information	Number of Responses	Hours Per Response	Total Hours	Dollar Equivalent (Hours x \$64.06)
Application for a Solar or Wind Energy Development Project Outside of any Designated Leasing Area or MLA Pipelines 43 CFR 2804.12, 2804.25(c), 2804.26(a)(5), 2804.30(g), and 2884.11(c) – SF-299	10	8	80	\$5,125
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12, 2804.25(c), and 2804.26(a)(5) – SF-299	10	8	80	\$5,125
General Description of a Proposed Project and Schedule for Submittal of a POD 43 CFR 2804.12(b)(1) and (b)(2) – SF-299	20	2	40	\$2,562
Preliminary Application Review Meetings (for 2 public meetings) for a Large-Scale Right-of-Way 43 CFR 2804.12(b)(4)	20	4	80	\$5,125
Application for an Energy Site-Specific Testing Grant 43 CFR 2804.12(a), 2804.30(g), and 2809.19(d) – SF-299	20	8	160	\$10,250
Application for an Energy Project-Area Testing Grant 43 CFR 2804.12(a), 2804.30(g), and 2809.19(d) – SF-299	20	8	160	\$10,250
Application for a Short-Term Grant 43 CFR 2804.12(a) and 2809.19(d) – SF-299	1	8	8	\$512
Application for Renewal of an Energy Project-Area Testing Grant or Other Short-Term Grant 43 CFR 2805.11(b)(2)(ii), 2805.14(h), and 2807.22 – SF-299	6	6	36	\$2,306
Showing of Good Cause 43 CFR 2804.40 and 2805.12	1	2	2	\$128
Bonding Requirements 43 CFR 2805.20	1	10	10	\$641
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21 -SF-299	11	8	88	\$5,637
Environmental, Technical, and Financial Records, Reports, and Other Information 43 CFR 2805.12(a)(15) – SF-299	20	6	120	\$7,687
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22 – SF-299	1	12	12	\$769
Request for Amendment, Assignment, or Other Change (FLPMA) 43 CFR 2807.11(b) and (d)) and 2807.21 – SF-299	30	16	480	\$30,749
Annual Certified Statement 43 CFR 2806.52(i) [PROPOSED NEW]	75	2	150	\$9,609

Collection of Information	Number of Responses	Hours Per Response	Total Hours	Dollar Equivalent (Hours x \$64.06)
Nomination of a Parcel of Land inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	1	4	4	\$256
Expression of Interest in a Parcel of Land inside a Designated Leasing Area 43 CFR 2809.11(c)	1	4	4	\$256
Plan of Development for a Solar or Wind Energy Development Lease inside a Designated Leasing Area 43 CFR 2809.18(c) – SF-299	2	8	16	\$1,025
Request for Amendment, Assignment, or Other Change (MLA) 43 CFR 2886.12(b) and (d) and 43 CFR 2887.11 – SF-299	2,862	16	45,792	\$2,933,436
Certification of Construction (MLA) 43 CFR 2886.12(f) – SF-299	5	4	20	\$1,281
Totals	3,117	—	47,342	\$3,032,729

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- * **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- * **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3)**

for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Respondents do not incur annual capital or startup costs and are not required to purchase any computer software or hardware, to respond to the IC requirements authorized by this control number.

The non-hour burden costs consist of fees authorized by Sections 304 and 504(g) of FLPMA (43 U.S.C. 1734 and 1764(g)). Section 1734 authorizes the Secretary of the Interior to establish reasonable filing and service fees and reasonable charges with respect to applications and other documents relating to the public lands. Section 504(g) authorizes the Secretary to promulgate regulations that require, as a condition of a right-of-way, that an applicant for or holder of a right-of-way reimburse the United States for all reasonable administrative and other costs incurred with respect to right-of-way applications and with respect to inspection and monitoring of construction, operation, and termination of a facility pursuant to such right-of-way.

The fees (*i.e.*, non-hour burdens) are itemized in the following table.

Table 13 - Estimated Annual Non-Hour Burdens

Collection of Information	Regulatory Authority for Fee	Number of Responses	Amount of Fee Per Response	Total Amount of Fees
Application for a Solar or Wind Energy Development Project Outside of any Designated Leasing Area 43 CFR 2804.12, 2804.25(c), 2804.26(a)(5), and 2804.30(g)	43 CFR 2804.12(c)(2)	10	\$15 per acre x average of 6,000 acres per application = \$90,000	\$900,000
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12, 2804.25(c), and 2804.26(a)(5)	43 CFR 2804.14	10	\$1,239 ²	\$12,390
Application for an Energy Project-Area Testing Grant 43 CFR 2804.12(a), 2804.30(g), and 2809.19(d)	43 CFR 2804.12(c)(2)	20	\$2 per acre x average of 6,000 acres per application = \$12,000	\$240,000
Application for Short-Term Grant 43 CFR 2804.12(a) and 2809.19(d)	43 CFR 2804.14	1	\$1,239 ³	\$1,239

² In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2020, at IM 2020-009 (Dec. 12, 2019) ("Rights-of-Way Management and Land Use Authorization Management").

³ In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2020, at IM 2020-009 (Dec. 12, 2019) ("Rights-of-Way Management and Land Use Authorization Management").

Collection of Information	Regulatory Authority for Fee	Number of Responses	Amount of Fee Per Response	Total Amount of Fees
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21	43 CFR 2804.14	11	\$15 per acre x average of 6,000 acres per application = \$90,000	\$990,000
Application for Renewal of an Energy Project- Area Testing Grant or Short-Term Grant 43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22	43 CFR 2804.14	6	\$1,239 ⁴	\$7,434
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22	43 CFR 2804.14	1	\$1,239 ⁵	\$1,239
Nomination of a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	43 CFR 2809.11(b)(1)	1	\$5 per acre x average of 6,000 acres per nomination = \$30,000	\$30,000
Total	—	—	—	\$2,182,302

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

The estimated hourly cost to the Federal Government of \$54.26, shown below in Table 14-1, is based on data from the Office of Personnel and Management (OPM) [at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/RUS_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/RUS_h.pdf). The benefits multiplier of 1.6 is implied by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

Table 14-1 - Weighted Average Hourly Cost Calculation

Position	Mean Hourly Pay Rate	Hourly Rate with Benefits (Rate x 1.6)	Percent of Collection Time	Weighted Average Hourly Cost
Clerical - GS-6, step 5	\$21.86	\$34.98	10%	\$3.50
Technical - GS-11, step 5	\$35.96	\$57.54	80%	\$46.03
Managerial - GS-13, step 5	\$51.25	\$82.00	10%	\$8.20
Total	—	—	100%	\$57.73

⁴ In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2020, at IM 2020-009 (Dec. 12, 2019) ("Rights-of-Way Management and Land Use Authorization Management").

⁵ In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2020, at IM 2020-009 (Dec. 12, 2019) ("Rights-of-Way Management and Land Use Authorization Management").

The following table itemizes the annual federal hour burdens and dollar equivalents for each IC activity.

Table 14-2 - Estimated Annual Federal Hour Burdens

Collection of Information	Number of Responses	Staff Hours Per Response	Total Hours	Dollar Equivalent (Hours x \$57.73)
Application for a Solar or Wind Energy Development Project Outside of Any Designated Leasing Area 43 CFR 2804.12, 2804.26(a)(5), and 2804.30(g)	10	12	120	\$6,928
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12 and 2804.26(a)(5)	10	12	120	\$6,928
General Description of a Proposed Project and Schedule for Submittal of a Plan of Development 43 CFR 2804.12(b)	20	2	40	\$2,309
Preliminary Application Review Meetings for 2 public meetings) for a Large-Scale Right-of-Way 43 CFR 2804.12(b)(4)	20	4	80	\$4,618
Application for an Energy Site-Specific Testing Grant 43 CFR 2804.12(a), 2804.30(g), and 2809.19(d)	20	8	160	\$9,237
Application for an Energy Project-Area Testing Grant 43 CFR 2804.12(a), 2804.30(g), and 2809.19(d)	20	8	160	\$9,237
Application for Short-Term Grant 43 CFR 2804.12(a) and 2809.19(d)	1	8	8	\$462
Showing of Good Cause 43 CFR 2804.40 and 2805.12	1	2	2	\$115
Bonding Requirements for Lands Outside Any Designated Leasing Area 43 CFR 2805.20	1	10	10	\$577
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21	11	12	132	\$7,620
Application for Renewal of an Energy Project-Area Testing Grant or Other Short-Term Grant 43 CFR 2805.11(b)(2)(ii), 2805.14(h), and 2807.22	6	6	36	\$2,078
Environmental, Technical, and Financial Records, Reports, and Other Information 43 CFR 2805.12(a)(15)	20	6	120	\$6,928
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22	1	12	12	\$693
Request for Amendment, Assignment, or Other Change (FLPMA) (43 CFR 2807.11(b) and (d) and 2807.21)	30	16	480	\$27,710
Annual certified statement. (43 CFR 2806.52(i))	75	2	150	\$8,660
Nomination of a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	1	4	4	\$231

Collection of Information	Number of Responses	Staff Hours Per Response	Total Hours	Dollar Equivalent (Hours x \$57.73)
Expression of Interest in a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.11(c)	1	4	4	\$231
Plan of Development for a Solar or Wind Energy Development Lease Inside a Designated Leasing Area 43 CFR 2809.18(c)	2	8	16	\$924
Request for an Amendment, Assignment, or Name Change (MLA) 43 CFR 2886.12(b) and (d) and 2887.11	2,862	16	45,792	\$2,643,572
Certification of Construction 43 CFR 2886.12(f)	5	4	20	\$1,155
Totals	----	—	47,466	\$2,740,212

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

Currently, the information- collection requirements contained in 43 CFR Parts 2800 and 2880 and approved under OMB control number 1004-0206 are estimated as follows: 3,042 annual responses; 47,112, annual burden hours; and \$2,182,302 annual cost burden. We are projecting a burden increase of 75 new annual responses and 150 new annual burden hours as result of this proposed rule. This burden hour increase would result from a proposed new information collection requirement contained in paragraph 2806.52(i) pertaining to the annual certified statement. This change in burden is considered a program change due to agency discretion. This new information collection is needed to help the BLM more accurately determine the production MW capacity fee based on the certified statement provided.

We are also adjusting the burden for 2 existing and unchanged information collections to reflect the burden those activities more accurately would involve for the industry. These adjustments include the following:

- Preliminary Application Review Meetings for 2 public meetings for a Large-Scale Right-of-Way (43 CFR 2804.12(b)(4)). The average response time is adjusted from 2 hours to 4 hours. This adjustment resulted in a 40-hour burden increase (from 40 hours to 80 hours).
- Environmental, Technical, and Financial Records, Reports, and Other Information 43 CFR 2805.12(a)(15). We have added a 50 percent increase in the hours required to prepare reports (from 4 per response to 6 per response). This resulted in an increasing the estimated annual burden hours for these activities from 80 hours to 120 hours.

There are no projected changes to the non-hour cost burdens as a result of this proposed rule.

The burden changes discussed above are summarized in Table 15-1, below.

Table 15-1: Summary of Burden Changes

	Responses	Hours	Non-hour Costs
Current Burden Inventory	3,042	47,112	\$2,182,302
Requested Burden	3,117	47,342	\$2,182,302
Difference	75	230	\$0
Program Change			
Due to New Statue	0	0	\$0
Due to Agency Discretion	75	150	\$0
Adjustment	0	+80	\$0

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The results of this collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The BLM will display the expiration date of the OMB approval.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification requirements outlined in 5 CFR 1320.9.

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