



Supporting Statement for EIA-860S (Supplement) – Voluntary State Level Generator Air Permit

July 2026

Part A: Justifications

OMB No. 1905-0215

Form EIA-860S, Voluntary State Level Generator Air Permit Inventory

Table of Contents

Part A: Justifications.....

 Introduction..... 2

 A.1. Legal Justification..... 2

 A.2. Needs and Uses of Data..... 3

 A.3. Use of Technology..... 3

 A.4. Efforts to Identify Duplication..... 3

 A.5. Provisions for Reducing Burden on Small Businesses..... 3

 A.6. Consequences of Less-Frequent Reporting..... 3

 A.7. Compliance with 5 CFR 1320.5..... 4

 A.8. Summary of Consultations Outside of the Agency..... 4

 A.9. Payments or Gifts to Respondents..... 5

 A.10. Provisions for Protection of Information..... 5

 A.11. Justification for Sensitive Questions..... 5

 A.12. Estimate of Respondent Burden Hours and Cost..... 5

 A.13. Annual Cost to the Federal Government..... 6

 A.14. Changes in Burden..... 7

 A.15. Reasons for Changes in Burden..... 1

 A.16. Collection, Tabulation, and Publication Plans..... 1

 A.17. OMB Number and Expiration Date..... 1

 A.18. Certification Statement..... 1

Introduction

The U.S. Energy Information Administration (EIA) is the statistical and analytical agency within the U.S. Department of Energy (DOE). EIA's mission is to collect, analyze, and disseminate independent and impartial energy information to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment. EIA is the Nation's premier source of energy information, and, by law, its data, analyses, and forecasts are independent of approval by any other officer or employee of the United States Government. EIA conducts a relevant, reliable, and timely data collection program that covers the full spectrum of energy sources, end uses, and energy flows; generates short- and long-term domestic and international energy projections; and performs informative energy analyses. EIA communicates its statistical and analytical products primarily through its website and customer contact center.

To meet this obligation, EIA's Office of Energy Statistics conducts surveys that collect information about the national energy system and key activities that affect that system. Increases in electricity demand have important effects on electric transmission and distribution systems. As evidence, President Donald J. Trump has issued three executive orders with direct bearing on questions of urgency, public harm, and unanticipated events related to this demand growth. Executive Order 14156, "Declaring a National Energy Emergency," issued on January 20, 2025, cites a "precariously inadequate and intermittent energy supply, and an increasingly unreliable grid, requiring swift and decisive action."¹ Executive Order 14262, "Strengthening the Reliability and Security of the United States Electric Grid," issued on April 8, 2025, states that "an increase in demand, coupled with existing capacity challenges, places a significant strain on our Nation's electric grid," and further notes "[that the] lack of reliability in the electric grid puts the national and economic security of the American people at risk."² The same executive order also refers to an unanticipated event in the form of "an unprecedented surge in electricity demand driven by rapid technological advancements, including the expansion of artificial intelligence data centers and increase in domestic manufacturing."³ With respect to the expansion of artificial intelligence, Executive Order 14365, "Ensuring a National Policy Framework for Artificial Intelligence," issued on December 11, 2025, asserts that "we remain in the earliest days of this technological revolution and are in a race with adversaries for supremacy within it."⁴

The urgency articulated by these executive orders⁵ is underscored by the more than 40 emergency orders issued by DOE under section 202(c) of the Federal Power Act (FPA) since January 2025. By

¹ Executive Order No. 14156, 90 Fed. Reg. 8433 (Jan. 20, 2025) (Declaring a National Energy Emergency), <https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-energy-emergency/>.

² Executive Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025) (Strengthening the Reliability and Security of the United States Electric Grid), <https://www.federalregister.gov/documents/2025/04/14/2025-06381/strengthening-the-reliability-and-security-of-the-united-states-electric-grid>.

³ Executive Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025) (Strengthening the Reliability and Security of the United States Electric Grid), <https://www.federalregister.gov/documents/2025/04/14/2025-06381/strengthening-the-reliability-and-security-of-the-united-states-electric-grid>.

⁴ <https://www.federalregister.gov/documents/2025/12/16/2025-23092/ensuring-a-national-policy-framework-for-artificial-intelligence>

⁵ <https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-the-reliability-and-security-of-the-united-states-electric-grid/>.

comparison, only one 202(c) order was issued in each of 2023 and 2024.⁶ FPA section 202(c)(1) provides that whenever the Secretary of Energy determines “that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy,” then the Secretary has the authority “to require by order . . . such generation, delivery, interchange, or transmission of electric energy as in [his] judgment will best meet the emergency and serve the public interest.”⁷ This statutory language constitutes a specific grant of authority to the Secretary to authorize the operation of generation, delivery, and transmission resources that the Secretary has determined will best meet an emergency. Such orders have affected every region of the country, including Colorado, Florida, Indiana, Maryland, Michigan, New York, Pennsylvania, Texas, Puerto Rico, and Washington. Each of these orders inherently signifies an official declaration of an “emergency” within the electric power system.

The Department of Energy Organization Act establishes the EIA Administrator’s central mission as “carrying out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information . . . which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation’s economic and social needs.” To achieve this mission, EIA manages a complex system of surveys to gather data from every sector of the U.S. energy system. One survey critical to this effort is EIA-860, Annual Electric Power Industry Report, which is intended to maintain a census of every U.S. electricity generating unit with a generation capacity equal to or greater than one megawatt (1 MW). DOE uses the results of this mandatory annual survey to inform its emergency orders under section 202(c) of the Federal Power Act. It is accompanied by a monthly requirement to provide updates on generator retirements and additions.

On February 19, 2026, the Office of Management and Budget (OMB) granted approval for an emergency Information Collection Request (ICR) to enhance the completeness and accuracy of the EIA-860 survey frame, delivered through the EIA-860S. This approval facilitated EIA’s fulfillment of its statutory obligations. EIA now seeks to transition the EIA-860S into an annual voluntary standby form. This form will enable the acquisition of power generator data from all 50 states, the District of Columbia, and five U.S. territories, primarily through collaboration with air permitting offices responsible for regulating generators under the Clean Air Act. Maintaining this annual form in standby will allow EIA to periodically gather administrative data, strengthening the EIA-860 frame and keeping a consolidated inventory of air-permitted electric generators up to date through systematic reconciliation and validation; without necessitating any alteration to the core purpose or structure of the primary EIA-860 survey.

Summary of Changes

Based on feedback received during the emergency data collection and the 60-day Federal Register Notice (FRN) comment period, EIA has revised this information collection to improve data accuracy and reduce respondent burden. Specifically, the estimated number of respondents has increased from 56 to 150 to account for jurisdictions where counties and regional air districts, rather than state-level agencies, issue air permits. The estimated reporting burden per response has been increased from 5

⁶ <https://www.energy.gov/ceser/2026-doe-202c-orders>.

⁷ Although the text of FPA section 202(c) grants this authority to “the Commission,” section 301(b) of the Department of Energy Organization Act transferred this authority to the Secretary of the Department of Energy. See 42 U.S.C. § 7151(b).

hours to 10 hours, and the reporting status has been changed from mandatory to voluntary. To further mitigate respondent burden, EIA will implement a "web-scraping first" protocol for jurisdictions with public-facing air permit portals; respondents will only be requested to voluntarily report new air permits issued since their last reporting period. Finally, the survey instructions have been clarified to request air permits for all power generators, rather than limiting the scope to backup generators, which better aligns with respondents' standard record-keeping practices.

A.1. Legal Justification

The authority for this voluntary information collection is provided by the following general provisions:

- Title 15 U.S. Code §764, which established EIA Administrator's powers to plan, direct, and conduct mandatory and voluntary energy programs that are designed and implemented in a fair and efficient manner. These powers include duties to collect, evaluate, assemble, and analyze energy information on U.S. reserves, production, demand, and related economic data, while obtaining the cooperation of business, labor, consumer, and other interests.
- Title 15 U.S. Code §790a, which established the National Energy Information System (NEIS) that is the enclave containing the energy data collected by EIA, which allows EIA to describe and analyze energy supply and consumption in the U.S. NEIS allows EIA to perform statistical and forecasting activities to meet the needs of DOE and Congress, as well as the needs of the States to the extent required by the Natural Gas Act [Title 15 U.S. Code §717 et seq.] and the Federal Power Act [Title 16 U.S. Code §791a et seq.].

A.2. Needs and Uses of Data

President Donald J. Trump has issued three executive orders with direct bearing on questions of urgency, public harm, and unanticipated events related to this demand growth. Executive Order 14156, "Declaring a National Energy Emergency," issued on January 20, 2025, cites a "precariously inadequate and intermittent energy supply, and an increasingly unreliable grid, requiring swift and decisive action."⁸ Executive Order 14262, "Strengthening the Reliability and Security of the United States Electric Grid," issued on April 8, 2025, states that "an increase in demand, coupled with existing capacity challenges, places a significant strain on our Nation's electric grid," and further notes "[that the] lack of reliability in the electric grid puts the national and economic security of the American people at risk."⁹ The same executive order also refers to an unanticipated event in the form of "an unprecedented surge in electricity demand driven by rapid technological advancements, including the expansion of artificial intelligence data centers and increase in domestic manufacturing."¹⁰ With respect to the expansion of artificial intelligence, Executive Order 14365, "Ensuring a National Policy Framework for Artificial

⁸ Executive Order No. 14156, 90 Fed. Reg. 8433 (Jan. 20, 2025) (Declaring a National Energy Emergency), <https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-energy-emergency/>.

⁹ Executive Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025) (Strengthening the Reliability and Security of the United States Electric Grid), <https://www.federalregister.gov/documents/2025/04/14/2025-06381/strengthening-the-reliability-and-security-of-the-united-states-electric-grid>.

¹⁰ Executive Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025) (Strengthening the Reliability and Security of the United States Electric Grid), <https://www.federalregister.gov/documents/2025/04/14/2025-06381/strengthening-the-reliability-and-security-of-the-united-states-electric-grid>.

Intelligence,” issued on December 11, 2025, asserts that “we remain in the earliest days of this technological revolution and are in a race with adversaries for supremacy within it.”¹¹

The existing deficiency in comprehensive data pertaining to power generators, especially smaller emergency units, constitutes a critical gap in our assessment of overall U.S. grid capacity and resilience. This data void could impede effective emergency response and grid management during periods of heightened demand or system stress, potentially resulting in widespread power disruptions and adverse economic impacts. The EIA-860S is designed to mitigate this critical information gap.

On February 19, 2026, the Office of Management and Budget (OMB) approved an emergency Information Collection Request (ICR) for the EIA-860S, specifically to augment the completeness and accuracy of the EIA-860 survey framework. This approval directly supports EIA's ability to fulfill its statutory mandates. EIA is now proposing to convert the EIA-860S into an annual standby form. This mechanism will facilitate the systematic acquisition of power generator data from all 50 states, the District of Columbia, and five U.S. territories. This data will be procured primarily through established collaborations with air permitting offices, which are statutorily responsible for regulating generators under the Clean Air Act. The implementation of this annual voluntary standby form will enable EIA to periodically gather administrative data, strengthening the EIA-860 frame and keeping a consolidated inventory of air-permitted electric generators up to date through systematic reconciliation and validation; without necessitating any alteration to the core purpose or structure of the primary EIA-860 survey.

A.3. Use of Technology

EIA will implement a "web-scraping first" protocol for jurisdictions with public-facing air permit portals; respondents will only be requested to voluntarily report new air permits issued since their last reporting period. The primary data collection method will be secure file transfers facilitated by EIA's e-filing system.

A.4. Efforts to Identify Duplication

There is no other known source available to provide a comprehensive and time-sensitive source of data. We have consulted with other federal agencies, including other DOE departmental elements and the U.S. Environmental Protection Agency, and have not identified an authoritative, comprehensive data source for power generator capacity at the scale and granularity required for accurate grid assessment and emergency planning.

A.5. Provisions for Reducing Burden on Small Businesses

Not applicable. This proposed information collection request addresses these gaps by acquiring existing power generator data from all 50 states, the District of Columbia, and five U.S. territories via air permitting offices, which regulate generators under the Clean Air Act, rather than imposing new direct reporting burdens on operators.

¹¹ <https://www.federalregister.gov/documents/2025/12/16/2025-23092/ensuring-a-national-policy-framework-for-artificial-intelligence>

A.6. Consequences of Less-Frequent Reporting

President Donald J. Trump has issued three executive orders with direct bearing on questions of urgency, public harm, and unanticipated events related to this demand growth. Executive Order 14156, "Declaring a National Energy Emergency," issued on January 20, 2025, cites a "precariously inadequate and intermittent energy supply, and an increasingly unreliable grid, requiring swift and decisive action."¹² Executive Order 14262, "Strengthening the Reliability and Security of the United States Electric Grid," issued on April 8, 2025, states that "an increase in demand, coupled with existing capacity challenges, places a significant strain on our Nation's electric grid," and further notes "[that the] lack of reliability in the electric grid puts the national and economic security of the American people at risk."¹³ The same executive order also refers to an unanticipated event in the form of "an unprecedented surge in electricity demand driven by rapid technological advancements, including the expansion of artificial intelligence data centers and increase in domestic manufacturing."¹⁴ With respect to the expansion of artificial intelligence, Executive Order 14365, "Ensuring a National Policy Framework for Artificial Intelligence," issued on December 11, 2025, asserts that "we remain in the earliest days of this technological revolution and are in a race with adversaries for supremacy within it."¹⁵

The current lack of comprehensive data on power generators, particularly smaller emergency units, represents a significant gap in our understanding of total U.S. grid capacity and resilience. This gap could hinder effective emergency response and grid management during periods of stress, potentially leading to widespread power outages and economic disruption.

A.7. Compliance with 5 CFR 1320.5

The data for the collection instruments in this proposal are being collected consistent with the guidelines in 5 C.F.R. 1320.5.

A.8. Summary of Consultations Outside of the Agency

60 Day Federal Register Notice

EIA published a 60-day Federal Register Notice on March 06, 2026, at 91 Fed. Reg. 44, page 11069, inviting the public to comment. EIA received four comments from the public. The comments generally fell into three categories. One comment fell under technical and policy recommendations related to the operation and environmental controls of backup generators, including suggestions for coordinated

¹² Executive Order No. 14156, 90 Fed. Reg. 8433 (Jan. 20, 2025) (Declaring a National Energy Emergency), <https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-energy-emergency/>.

¹³ Executive Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025) (Strengthening the Reliability and Security of the United States Electric Grid), <https://www.federalregister.gov/documents/2025/04/14/2025-06381/strengthening-the-reliability-and-security-of-the-united-states-electric-grid>.

¹⁴ Executive Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025) (Strengthening the Reliability and Security of the United States Electric Grid), <https://www.federalregister.gov/documents/2025/04/14/2025-06381/strengthening-the-reliability-and-security-of-the-united-states-electric-grid>.

¹⁵ <https://www.federalregister.gov/documents/2025/12/16/2025-23092/ensuring-a-national-policy-framework-for-artificial-intelligence>

permitting pathways; two comments fell under concerns from state agencies and state Attorneys General regarding EIA's statutory authority to collect the requested information, the accuracy of burden estimates, and the feasibility of providing generator-level data; and lastly, one comment provided general feedback emphasizing the need for clear guidance, practical implementation, reasonable timelines, and user-friendly processes.

EIA prepared two separate responses to address the distinct nature of the public comments received on the EIA-860S. A consolidated response was drafted for general stakeholders, acknowledging the value of feedback regarding technical considerations, environmental controls, data gaps in backup-generator reporting, and concerns about reporting burden. This response explains that EIA will convert the EIA-860S into an annual voluntary standby survey, reduce burden by retrieving publicly available permits before contacting States, and request only new permit information going forward. A separate, tailored response was issued to the coalition of State Attorneys General due to the legal and statutory issues they raised. In this response, EIA outlines its statutory mission, emphasizes the importance of generator-level data for national grid reliability, and reiterates burden-reduction steps, while directly addressing the States' concerns about authority, scope, and feasibility by clarifying that all EIA-860S questions will be voluntary and that future requests will avoid duplication wherever possible.

A.9. Payments or Gifts to Respondents

Respondents to this information collection will not receive any payments or gifts from EIA to participate in this information collection.

A.10. Provisions for Protection of Information

All information reported will be treated as non-sensitive and may be publicly released in identifiable form.

The Federal Energy Administration Act requires EIA to provide company-specific data to other Federal agencies when requested for official use. The information reported on this form may also be made available, upon request, to another component of DOE, to any Committee of Congress, the Government Accountability Office, or other federal agencies authorized by law to receive such information. A court of competent jurisdiction may obtain this information in response to an order. The information may be used for any nonstatistical purposes such as administrative, regulatory, law enforcement, or adjudicatory purposes.

A.11. Justification for Sensitive Questions

This information collection does not include any questions of a sensitive nature.

A.12. Estimate of Respondent Burden Hours and Cost

The total burden is estimated at 1500 hours, calculated as 10 hours per respondent for a one-time collection across the air permitting offices, which include all 50 states, the District of Columbia, and the five major U.S. territories. In some states, air permits are delegated to the county and/or regional air district level, totaling 150 respondents. This translates to an estimated additional cost of \$142,410 for respondents, derived from 1500 hours multiplied by an hourly rate of \$94.94 (representing the average loaded salary and benefits for an EIA employee). It is anticipated that the actual burden on respondents may be lower, given that the required administrative data is publicly available on the websites of many of these air permitting offices, although not in an easily retrievable, consolidated format.

Table A1: Estimated Respondent Burden					
EIA Form Number/Title	Annual Reporting Frequency	Number of Respondents	Annual Number of Responses	Burden Hours Per Response	Annual Burden Hours
Form EIA-860S (Supplement) – State Level Generator Air Permit Inventory	1	150	150	10	1500
TOTAL		150	150		1500

A.13. Annual Cost to the Federal Government

The expected cost of operating this EIA-860s is estimated at \$193,152 and includes federal staff time for survey-related activities, such as frame maintenance, collection, processing, dissemination, and data systems maintenance.

A.14. Changes in Burden

Number of respondents increased from 56 to 150 respondents. The time to complete increased from 5 hours to 10 hours, increase the annual burden hours to 1500.

Table A2. Changes in Burden

EIA Form Number/Title	Annual Reporting Frequency	Number of Respondents (Previously Approved)	Number of Respondents (Requested)	Annual Number of Responses (Previously Approved)	Annual Number of Responses (Requested)	Burden Hours Per Response (Previously Approved)	Burden Hours Per Response (Requested)	Annual Burden Hours (Previously Approved)	Annual Burden Hours (Requested)	Annual Number of Responses			Annual Burden Hours		
										Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Adjustment	Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Adjustment
Form EIA-860S (Supplement) – State Level Generator Air Permit Inventory	1	56	150	56	150	5	10	280	1500		94	94		1220	1,220
TOTAL		56	150	56	150			280	1500		94	94		1220	1,200

A.15. Reasons for Changes in Burden

Based on feedback received during the emergency data collection and the 60-day Federal Register Notice (FRN) comment period, the estimated number of respondents has increased from 56 to 150 to account for jurisdictions where counties and regional air districts, rather than state-level agencies, issue air permits. The estimated reporting burden per response has increased from 5 hours to 10 hours. To further mitigate respondent burden, EIA will implement a "web-scraping first" protocol for jurisdictions with public-facing air permit portals; respondents will only be requested to voluntarily report new air permits issued since their last reporting period.

Table A3. ICR Summary of Burden

	Requested	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Previously Approved
Total Number of Responses	150	0	94	56
Total Time Burden (Hr)	1500	0	1220	280

A.16. Collection, Tabulation, and Publication Plans

By identifying and incorporating power generator data from air permitting offices into the EIA-860 frame, EIA and DOE will obtain a more complete and accurate representation of the total U.S. grid capacity. Furthermore, consistent with the current EIA-860 form, all information reported will be treated as non-sensitive and may be publicly released in identifiable form.

A.17. OMB Number and Expiration Date

The OMB number (1905-0215) and expiration date are displayed on each form.

A.18. Certification Statement

This submission meets all certification requirements of the "Certification for Paperwork Reduction Act Submissions," for OMB Form 83-I.