



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657



In Reply Refer To:
2800 (933) P

December 18, 2023

EMS TRANSMISSION
Instruction Memorandum No. ID-2023-009 Change 1-
Expires: 09/30/2026

To: Bureau of Land Management (BLM), Idaho Leadership Team

From: State Director

Subject: Pre-National Environmental Policy Act (NEPA) Assessment Process for Wind and Solar Energy Development Applications

Program Area: Right-of-Way (ROW) Management, Wind and Solar Energy

Purpose: This Change 1 to Idaho IM-2023-009, Pre-NEPA Assessment Process for Wind and Solar Energy Development Applications, incorporates new and updated text to provide correlation and clarity with steps and information provided within the IM attachments. This Change 1 also updates hyperlinks and adds additional details to the factors to be considered within the Renewable Energy Factors Analysis Report.

This policy enhances consistency and workflow efficiency for reviewing ROW applications for proposed wind and solar energy development projects.

Administrative or Mission Related: Mission

Policy/Action: This Instruction Memorandum (IM) identifies the pre-NEPA assessment requirements for applications for wind and solar energy development on public lands in Idaho, adapted from the materials and process framework identified in IM No. 2023-015, *Variance Process for Solar Energy Applications*.

In accordance with Federal regulations under Title 43 Code of Federal Regulations (CFR) Part 2800, the BLM will notify applicants in writing upon receipt of their application and identify the required processing fees for the reimbursement of reasonable costs for application processing. Pursuant to 43 CFR 2804.14(d), after an initial review of the application, the BLM will notify the applicant of the processing category into which their application fits and incorporate the application filing fees into this determination. The applicant must then submit the appropriate payment for that category before the BLM begins processing the application. The pre-NEPA assessment is part of application processing and, therefore, cost recovery is appropriate consistent with 43 CFR 2804.19(e). As the BLM develops cost recovery estimates for the

processing of applications, the BLM should consider all reasonable costs that may be incurred by the BLM and other Federal agencies and ensure all measures are taken to collect and manage these funds.

Screening and prioritization of applications that are less likely to be developed is required to reduce Bureau workloads; to facilitate accelerated processing and decision-making for projects with the greatest technical and financial feasibility and the fewest anticipated natural and cultural resource conflicts; and to enhance consistency across all BLM Idaho offices. As such, the pre-NEPA assessment process described in this policy shall be applied only once an application has been initially screened and prioritized (see [IM-2022-027](#), *Initial Screening and Prioritization for Solar and Wind Energy Applications and Nominations/Expressions of Interests*) and the appropriate cost recovery processing fees have been collected from the applicant. Attachment 1 provides a checklist for the pre-application, application screening and prioritization, and pre-NEPA assessment process. Applications ranked as high- or medium-priority by the Authorized Officer are eligible to move into the pre-NEPA assessment process. Any application ranked as a low priority shall not proceed into the pre-NEPA assessment process until the Authorized Officer has completed the review of higher priority applications in that area.

To start the pre-NEPA assessment process, the applicant must submit all necessary information and materials with their application package, and the BLM must determine that the application is a high or medium priority. Once the proponent has submitted a sufficient application package, the pre-NEPA assessment process, outlined in Attachment 1, is expected to take approximately 6 months (starting with a sufficient application package through the pre-NEPA assessment process). The steps and tasks listed in Attachment 1 can often be completed concurrently to allow for a more timely determination of application acceptability. The timeline may be shorter or longer based on the circumstances of each application.

The BLM will ensure that applicants have proactively evaluated and comprehensively described the probable effects that the project may have on elements of the human and natural environment as described in the Right-of-way Application Standard Form 299 (SF-299) in items 16-18. To support the BLM's review of this requirement, the pre-NEPA assessment process requires the applicant to prepare a Renewable Energy Factors Analysis Report (REFAR). A table of contents template and additional factors to be considered through the preparation of the REFAR are provided in Attachment 2 and Attachment 3, respectively. The BLM's initial review of the REFAR will begin at the first steps of the pre-NEPA assessment process (see flowchart in Attachment 6). The BLM will consider whether the application should move through the pre-NEPA assessment process and continue to be processed based on, among other things, the sufficiency of the applicant's comprehensive evaluation of reasonably foreseeable effects and applicant-proposed specific mitigation measures. Generalized mitigation statements (e.g., "All impacts will be mitigated.") will not be accepted.

Based on the BLM's evaluation of the information provided by the applicant through the pre-NEPA assessment process and input of Federal, State, and local government agencies, Tribes, and the public through preliminary application review meetings, the Authorized Officer will determine whether it is appropriate to continue to process the application, request the applicant to modify the application, or deny the application. The BLM may also consider whether the applicant has demonstrated that the proposed wind or solar project is expected to be compatible with state and local plans and will likely be able to acquire the required permits and/or

authorizations of all other relevant jurisdictions to implement the project. The BLM will document the determinations resulting from the pre-NEPA assessment process with a Pre-NEPA Assessment Information Briefing Memorandum (Attachment 4) and a Pre-NEPA Assessment Concurrence Memorandum (Attachment 5).

The BLM has broad discretion under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to deny ROW applications prior to performing or completing the NEPA process. If through the application screening and prioritization process or after the pre-NEPA assessment process it is determined that circumstances described in 43 CFR 2804.26(a) apply to the application, the Authorized Officer may deny the application after coordination with the State Director. Such decisions must be made with regard for the public interest and be supported by reasoned analysis and an adequate administrative record. Decisions to deny ROW applications must be assessed on a case-by-case basis. Denial of an application is subject to administrative appeal to the Interior Board of Land Appeals.

All ROW applications that the BLM determines to be appropriate for continued processing will, at the applicant's expense, be processed in compliance with NEPA and all other applicable laws, regulations, and policies. Generally, the BLM uses the NEPA process to help support compliance with applicable procedural requirements under Federal laws, including the Endangered Species Act (16 USC 1536) and Section 106 of the National Historic Preservation Act (54 USC 306108), and their implementing regulations. When a project proponent applies for a ROW, the BLM should advise the proponent that its application might be denied and that the proponent's financial commitments in connection with the application will not be a factor in the BLM's evaluation process.

The pre-NEPA assessment process will be used to identify and evaluate the need for a possible land use plan (LUP) amendment.

The materials and process described in this policy are required for wind and solar energy development projects proposed on public lands in Idaho but are also available for use for other types of renewable energy projects proposed on public lands, or testing associated with such projects, where the Authorized Officer determines use would be in the public interest.

A favorable determination in the pre-NEPA assessment process does not constitute approval of the proposed project; rather, it would allow the BLM to continue processing the application and initiate its NEPA process, including public scoping and the preparation of an environmental assessment or environmental impact statement. Through the NEPA process, the BLM can complete a site-specific analysis of potential impacts from the development of the proposed project. Once completed, the NEPA analysis would serve as the basis for any future decision to either approve, approve with modifications, or deny the project.

Timeframe: This policy is effective immediately.

Background: In 2012, the BLM finalized the Western Solar Plan – a programmatic amendment to LUPs in six southwestern states (Arizona, California, Colorado, Nevada, New Mexico, and Utah) – to facilitate utility-scale solar energy by designating Solar Energy Zones (SEZs) in areas of low resource conflict, access to transmission, and a high potential for solar energy development on public lands. The Western Solar Plan also established a process to allow for the

development of utility-scale solar energy development outside of SEZs known as the variance process. IM No. 2023-015 established consistent materials and requirements for the variance process for solar energy applications in variance areas in those states.

Public lands in Idaho are not subject to the Western Solar Plan and, therefore, do not contain variance areas where the process identified in IM No. 2023-015 is required. However, IM No. 2023-015 also states, “The materials and process described in this policy are required for solar development applications proposed on variance lands subject to the Western Solar Plan. However, where BLM State leadership determines that the adaptation and use of these materials and the process framework (excluding the requirement of Director concurrence) would be in the public interest, they may be used for any renewable energy development application in States not subject to the Western Solar Plan.” This pre-NEPA assessment process is adapted from the materials and framework described in IM No. 2023-015 in order to facilitate consistent and efficient processing of applications for wind and solar energy development on public lands administered by the BLM in Idaho.

Manual/Handbook Sections Affected: None

Coordination: The Idaho Leadership Team, BLM Idaho’s lands and realty staff, BLM Headquarters, and the Solicitor’s Office reviewed and provided input into this policy prior to its finalization.

Contact: If you have any questions concerning the content of this IM, please contact Aimee Betts, Branch Chief- Minerals, Land Tenure, and Water Rights, Idaho State Office, at 208-373-3827 or abetts@blm.gov.

Boise District with Union: Management is reminded to notify and satisfy any bargaining requirements prior to implementation.

Signed by:

Karen Kelleher KAREN
State Director KELLEHER

Digitally signed by KAREN
KELLEHER
Date: 2023.12.18 18:03:12 -07'00'

Authenticated by:

Shellie Boss
State Records Administrator

6 Attachments

1. Pre-Application, Application Screening and Prioritization and Pre-NEPA Assessment Process Checklist (4 pages)
2. Renewable Energy Factors Analysis Report (REFAR) Table of Contents Template (1 page)
3. Factors to be Considered for REFAR (2 pages)
4. Pre-NEPA Assessment Information and Briefing Memorandum Template (3 pages)
5. Pre-NEPA Concurrence Memo Template (2 pages)
6. Pre-NEPA Assessment Process Flowchart (1 page)