



**6450-01-P**

**DEPARTMENT OF ENERGY**

**Western Area Power Administration**

**Agency Information Collection Extension**

**AGENCY:** Western Area Power Administration, Department of Energy.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Western Area Power Administration (WAPA), pursuant to the Paperwork Reduction Act of 1995, intends to extend an information collection request with the Office of Management and Budget (OMB) for three years with ministerial changes. The current OMB control number 1910–5136 for WAPA’s Applicant Profile Data (APD) form expires November 30, 2020. WAPA intends to extend the APD form under the OMB control number to November 30, 2023. WAPA is seeking comments on this proposed information collection extension.

**DATES:** Comments regarding this proposed information collection must be received on or before the end of the comment period that closes on **[INSERT 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. WAPA must receive comments by the end of the comment period to ensure consideration.

**ADDRESSES:** Written comments may be sent to Mr. Christopher O. Magee, Records and Information Management Program Manager, Western Area Power Administration, PO Box 281213, Lakewood, CO 80228, or by email to [records@wapa.gov](mailto:records@wapa.gov). Please refer to “Paperwork Reduction Act Information Collection” as the subject of your comments.

**FOR FURTHER INFORMATION CONTACT:** Please contact Ms. Erin Green, Power Marketing and Energy Services Specialist, Western Area Power Administration, PO Box 281213, Lakewood, CO 80228, telephone (720) 962–7016, or email [egreen@wapa.gov](mailto:egreen@wapa.gov). The

proposed APD form is available on WAPA's website at  
[www.wapa.gov/PowerMarketing/Pages/applicant-profile-data.aspx](http://www.wapa.gov/PowerMarketing/Pages/applicant-profile-data.aspx).

**SUPPLEMENTARY INFORMATION:** This information collection request relates to: (1) *OMB No.:* 1910–5136; (2) *Information Collection Request Title:* Western Area Power Administration Applicant Profile Data; (3) *Type of Review:* Renewal; (4) *Purpose:* The proposed collection of information is necessary for the proper performance of WAPA's power marketing functions. WAPA markets a limited amount of Federal hydropower and has discretion to determine who will receive an allocation of Federal hydropower. Due to the limited quantity and high demand for WAPA's hydropower available under established marketing plans, WAPA may need to collect information using the APD to evaluate the entities applying to receive allocations of Federal hydropower; (5) *Annual Estimated Number of Respondents:* 33.3; (6) *Annual Estimated Number of Total Responses:* 33.3; (7) *Annual Estimated Number of Burden Hours:* 250; and (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* \$32,046.98.

## **I. Statutory Authority**

The Reclamation Act of 1902 established the Federal reclamation program.<sup>1</sup> The basic principle of the Reclamation Act of 1902 was that the United States, through the Secretary of the Interior, would build and operate irrigation works from the proceeds of public land sales in sixteen arid Western states (a seventeenth—Texas—was added in 1906). The Reclamation Project Act of 1939 expanded the purposes of the reclamation program and specified certain terms for contracts that the Secretary of the Interior enters into to furnish water and power.<sup>2</sup> Congress enacted the Reclamation Laws for purposes that include enhancing navigation,

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<sup>1</sup> See Act of June 17, 1902, ch. 1093, 32 Stat. 388 (1902), as amended and supplemented.

<sup>2</sup> See Act of Aug. 4, 1939, ch. 418, 53 Stat. 1187 (1939), as amended and supplemented.

protection from floods, reclaiming the arid lands in the Western United States, and for fish and wildlife.<sup>3</sup> Congress intended that the production of power would be a supplemental feature of the multi-purpose water projects authorized under the Reclamation Laws.<sup>4</sup> Section 9 of the Reclamation Project Act of 1939 provides that no contract entered into by the United States for power may, in the judgment of the Secretary, “impair the efficiency of the project for irrigation purposes.”<sup>5</sup> Section 5 of the Flood Control Act of 1944, as amended,<sup>6</sup> is read *in pari materia* with the Reclamation Laws with respect to WAPA.<sup>7</sup> In 1977, section 302 of the Department of Energy Organization Act transferred the power marketing functions of the Department of the Interior to the Secretary of Energy, acting by and through a separate Administrator for WAPA.<sup>8</sup> Under this authority, WAPA markets Federal hydropower. As part of WAPA’s marketing authority, WAPA needs to obtain information from interested entities who desire an allocation of Federal power using the APD form. The Paperwork Reduction Act of 1995 requires WAPA to obtain a clearance from OMB before collecting this information through the APD form.<sup>9</sup>

## **II. This Process Determines the Format of the APD and Is Not a Call for Applications**

This public process and the associated *Federal Register* notice only determine the information that WAPA will collect from an entity desiring to apply for a Federal power allocation. This public process is a legal requirement that WAPA must fulfill before WAPA can request information from potential preference customers.

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<sup>3</sup> See, e.g., Act of Oct. 26, 1937, ch. 832, 50 Stat. 844, 850 (1937), as amended and supplemented.

<sup>4</sup> See *id.*

<sup>5</sup> 43 U.S.C. 485h(c)(1).

<sup>6</sup> 16 U.S.C. 825s.

<sup>7</sup> See, e.g., *United States v. Sacramento Mun. Util. Dist.*, 652 F.2d 1341, 1345 n.4 (9th Cir. 1981) (citing *N. Cal. Power Agency v. Morton*, 396 F. Supp. 1187, 1189 (D.D.C. 1975)). See also *Disposition of Surplus Power Generated at Clark Hill Reservoir Project*, 41 Op. Att’y Gen. 236, 245 (1955).

<sup>8</sup> See 42 U.S.C. 7152(a)(1)(E).

<sup>9</sup> See 44 U.S.C. 3501 *et seq.*

This public process is not the process whereby interested parties request an allocation of Federal power. The actual allocation of power is outside the scope of this proceeding. Please do not submit a request for Federal power in this process. Later, and as appropriate, WAPA will issue calls for applications as part of project-specific marketing plans. When WAPA issues a call for applications, the information WAPA proposes to collect is voluntary. WAPA will use the information collected, in conjunction with its project-specific marketing plans, to determine an entity's eligibility, and ultimately which entities will receive an allocation of Federal power.

### **III. Invitation for Comments**

WAPA intends to extend and reuse the APD form approved under OMB control number 1910-5136. The extension would continue use of the form through November 30, 2023. WAPA is proposing some ministerial changes to the APD. The proposed APD form, including a list of ministerial changes and the reason for such changes, is available on WAPA's website.

Comments are invited on: (1) whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated electronic, mechanical or other collection techniques, or other forms of information technology. After considering all public comments, WAPA will publish a second notice in the *Federal Register* submitting the APD to OMB.

### **Signing Authority**

This document of the Department of Energy was signed on May 15, 2020, by

Mark A. Gabriel, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on May 19, 2020.

**Treena V. Garrett,**

*Federal Register Liaison Officer,*

*U.S. Department of Energy.*

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