

## § 2806.16

(1) You are a non-profit organization, corporation, or association which is not controlled by, or is not a subsidiary of, a profit making corporation or business enterprise and the facility or project will provide a benefit or special service to the general public or to a program of the Secretary;

(2) You provide without charge, or at reduced rates, a valuable benefit to the public at large or to the programs of the Secretary of the Interior;

(3) You hold a valid Federal authorization in connection with your grant and the United States is already receiving compensation for this authorization. This paragraph does not apply to oil and gas leases issued under part 3100 of this chapter; or

(4) Your grant involves a cost share road or a reciprocal right-of-way agreement not subject to subpart 2812 of this chapter. In these cases, BLM will determine the rent based on the proportion of use.

(c) The BLM State Director may waive or reduce your rent payment if the BLM State Director determines that paying the full rent will cause you undue hardship and it is in the public interest to waive or reduce your rent. In your request for a waiver or rental reduction you must include a suggested alternative rental payment plan or timeframe within which you anticipate resuming full rental payments. BLM may also require you to submit specific financial and technical data or other information that corrects or modifies the statement of financial capability required by § 2804.12(a)(5) of this part.

### § 2806.16 When must I make estimated rent payments to BLM?

To expedite the processing of your grant application, BLM may estimate rent payments and collect that amount before it issues the grant. The amount may change once BLM determines the actual rent of the right-of-way. BLM will credit any rental overpayment, and you are liable for any underpayment. This section does not apply to rent payments made under a rent schedule in this part.

## 43 CFR Ch. II (10–1–12 Edition)

### LINEAR RIGHTS-OF-WAY

#### § 2806.20 What is the rent for a linear right-of-way grant?

(a) Except as described in § 2806.26 of this chapter, the BLM will use the Per Acre Rent Schedule (see paragraph (c) of this section) to calculate rent for all linear right-of-way authorizations, regardless of the granting authority (FLPMA, MLA, and their predecessors). Counties (or other geographical areas) are assigned to an appropriate zone in accordance with § 2806.21. The BLM will adjust the per acre rent values in the schedule annually in accordance with § 2806.22(a), and it will revise the schedule at the end of each 10-year period in accordance with § 2806.22(b).

(b) The annual per acre rent for all types of linear right-of-way facilities is the product of 4 factors: The per acre zone value multiplied by the encumbrance factor multiplied by the rate of return multiplied by the annual adjustment factor (see § 2806.22(a)).

(c) You may obtain a copy of the current Per Acre Rent Schedule from any BLM state or field office or by writing: Director, BLM, 1849 C St., NW., Mail Stop 1000 LS, Washington, DC 20240. The BLM also posts the current rent schedule on the BLM Homepage on the Internet at <http://www.blm.gov>.

[73 FR 65071, Oct. 31, 2008]

#### § 2806.21 When and how are counties or other geographical areas assigned to a County Zone Number and Per Acre Zone Value?

Counties (or other geographical areas) are assigned to a County Zone Number and Per Acre Zone Value based upon 80 percent of their average per acre land and building value published in the Census of Agriculture (Census) by the National Agricultural Statistics Service (NASS). The initial assignment of counties to the zones will cover years 2006 through 2010 of the Per Acre Rent Schedule and is based upon data contained in the most recent NASS Census (2002). Subsequent re-assignments of counties will occur every 5 years (in 2011 based upon 2007 NASS Census data, in 2016 based upon 2012

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NASS Census data, and so forth) following the publication of the NASS Census.

[73 FR 65071, Oct. 31, 2008]

### § 2806.22 When and how does the Per Acre Rent Schedule change?

(a) Each calendar year the BLM will adjust the per acre rent values in § 2806.20 for all types of linear right-of-way facilities in each zone based on the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS Census data becomes available. For example, the average annual change in the IPD-GDP from 1994 to 2003 (the 10-year period immediately preceding the year (2004) that the 2002 NASS Census data became available) is 1.9 percent. This annual adjustment factor is applied to years 2006 through 2015 of the Per Acre Rent Schedule. Likewise, the average annual change in the IPD-GDP from 2004 to 2013 (the 10-year period immediately preceding the year (2014) when the 2012 NASS Census data will become available) will be applied to years 2016 through 2025 of the Per Acre Rent Schedule.

(b) The BLM will review the NASS Census data from the 2012 NASS Census, and each subsequent 10-year period, and as appropriate, revise the number of county zones and the per acre zone values. Any revision must include 100 percent of the number of counties and listed geographical areas for all states and the Commonwealth of Puerto Rico and must reasonably reflect the increases or decreases in the average per acre land and building values contained in the NASS Census.

[73 FR 65072, Oct. 31, 2008]

### § 2806.23 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

(a) Except as provided by §§ 2806.25 and 2806.26, the BLM calculates your rent by multiplying the rent per acre for the appropriate county (or other geographical area) zone from the current schedule by the number of acres (as rounded up to the nearest tenth of an acre) in the right-of-way area that fall in each zone and multiplying the result by the number of years in the

rental payment period (the length of time for which the holder is paying rent).

(b) The BLM will phase-in the initial implementation of the Per Acre Rent Schedule (see § 2806.20(c)) by reducing the 2009 per acre rent by 25 percent.

(c) If the BLM has not previously used the rent schedule to calculate your rent, we may do so after giving you reasonable written notice.

[73 FR 65072, Oct. 31, 2008]

### § 2806.24 How must I make rental payments for a linear grant?

(a) *Term grants.* For linear grants, except those issued in perpetuity, you must make either nonrefundable annual payments or a nonrefundable payment for more than 1 year, as follows:

(1) *One-time payments.* You may pay in advance the total rent amount for the entire term of the grant or any remaining years.

(2) *Multiple payments.* If you choose not to make a one-time payment, you must pay according to one of the following methods:

(i) *Payments by individuals.* If your annual rent is \$100 or less, you must pay at 10-year intervals, not to exceed the term of the grant. If your annual rent is greater than \$100, you may pay annually or at 10-year intervals, not to exceed the term of the grant. For example, if you have a grant with a remaining term of 30 years, you may pay in advance for 10 years, 20 years, or 30 years, but not any other multi-year period.

(ii) *Payments by all others.* If your annual rent is \$500 or less, you must pay rent at 10-year intervals, not to exceed the term of the grant. If your annual rent is greater than \$500, you may pay annually or at 10-year intervals, not to exceed the term of the grant.

(b) *Perpetual grants.* For linear grants issued in perpetuity (except as noted in §§ 2806.25 and 2806.26), you must make either nonrefundable annual payments or a nonrefundable payment for more than 1 year, as follows:

(1) *Payments by individuals.* If your annual rent is \$100 or less, you must pay at 10-year intervals, not to exceed 30 years. If your annual rent is greater than \$100, you may pay annually or at