

**SUPPORTING STATEMENT**

0572-NEW

7 CFR Part 1782 – Servicing of Water Programs Loans and Grants

**This information collection package is for a final rulemaking. At the proposed rulemaking stage the agency submitted an information collection package which was reviewed and filed with comment.**

A. **Justification**

1. **Explain the circumstances that make the collection of information necessary.**

The Rural Utilities Service's (RUS), an agency delivering the United States Department of Agriculture's Rural Development programs, hereinafter referred to as Rural Development or Agency. Water and Environmental Programs (WEP) is responsible for providing financing and technical assistance for development and operation of rural water systems and wastewater and other waste disposal facilities throughout the United States. WEP was formerly part of the Rural Development Administration (RDA), which was a successor agency to the Farmers Home Administration (FmHA).

This information collection package covers a new loan and grant servicing regulation, 7 CFR Part 1782, "Servicing of Water Programs Loans and Grants," which prescribes policies and responsibilities for servicing actions necessary in connection with WEP loans and grants which the Agency published as proposed rule and is now adopting as a final rule. This new servicing regulation will be developed by consolidating portions of nine existing regulations of the former FmHA, now Rural Development, into one regulation covering only water and wastewater programs and internal agency staff instruction (Staff Instruction 1782-1). The Rural Development regulations that currently cover servicing of water and waste programs are 7 CFR part 1951, subparts A, D, E, F, and O; 7 CFR Part 1955, subparts A, B, and C; and 7 CFR Part 1956, subpart C. These regulations are being amended to remove water and waste programs when 7 CFR Part 1782 is finalized. As part of this initiative, the Agency reviewed all existing requirements of the loan servicing function, and wherever possible reduced the burden on borrowers.

Section 306c of the Consolidated Farm and Rural Development Act, as amended, authorizes the Secretary of Agriculture, acting through the Agency, to establish provisions for security servicing policies for the loans and grants in question. Servicing actions become necessary due to the development of financial or other problems and may be initiated by either a recipient which recognizes that a problem exists and wishes to resolve it, or by the Agency. If there is a problem which exists, a recipient of the loan, grant, or loan guarantee must furnish financial information which is used to aid in resolving the problem through reamortization, sale, transfer, debt restructuring, liquidation, or other means provided in the regulation. The information involved is similar to that which would be required by a commercial lender in similar circumstances.

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.**

The Agency provides forms and/or guidelines to assist in the collection and submission of the information in question. In some cases, the use of available Agency forms is optional and the borrower may submit the information required on other forms. The Agency will continue to utilize existing Rural Development forms since they continue to meet the needs of the program. The forms or related items are completed by the borrower and submitted to and evaluated by the Agency servicing office. The information, which is for the most part financial in nature, is needed by the Agency to determine if borrowers, based on their individual situations, qualify for the various servicing authorities.

The specific items, which impose burden under this regulation, are:

### **REPORTING REQUIREMENTS OF THIS COLLECTION – NO FORMS APPROVED**

- **Subordination or parity of security**

Borrowers may find it necessary to secure funding from outside sources to finance portions of their facility. This process may require the Agency to subordinate or lower its security position to a parity level. In order to approve a borrower's request to subordinate or parity debt, Rural Development requires a written request from the borrower with supporting documentation as cited in 7 CFR 1782.17(a)..

The estimated number of requests from subordination or parity are 10 and the burden is estimated at 1 hour (based on current caseload and previous experience).

- **Environmental evaluation**

Certain servicing actions require borrowers to submit evidence that security property has been evaluated for releases of hazardous substances of petroleum products. The Agency requires that borrowers, as a minimum, complete a questionnaire prior to approval of the transaction. This requirement is necessary to protect the Government's interest when taking possession of property subject to environmental contamination.

It is estimated the burden for this requirement will be 12 hours and estimated number of respondents is 10.

- **Agree to terms of grant agreement/Assume terms of Grant Agreement**

RUS requires borrowers/transferees and leasees to assume all rights and obligations of the grant agreement for sales, transfers, or leases of a facility. Burden required is the time the borrower/transferee must read and sign the grant agreement when the facility is purchased or transferred.

The estimated number of respondents is 10 and the burden required to comply is estimated at 15 minutes (based on current caseload and previous experience).

- **Written consent of lienholders**

The Agency must approve all transfers to eligible transferees. In order to protect the Agency's security interest, a determination must be made that no liens, judgements or similar claims against the security exist prior to transferring the property. Rural Development requires the written consent of any other lienholder as a condition of approving the transfer.

The impact on the public is limited to obtaining the written consent of lienholders and is estimated to be 1 hour and the number of respondents is estimated at 10 (based on current caseload and previous experience).

- **Insurance**

Prior to approving a transfer, borrowers must obtain adequate insurance in order to protect the Government's financial interest.

This insurance requirement is limited to the time required to read, sign, and obtain insurance. The estimated burden is 2 hours. The estimated respondents are 10 (based on current caseload and previous experience).

- **Preparation of new debt instruments**

It may be necessary to prepare new debt instruments in order to effect transfers requested by borrowers depending on the type of organizational structure, and State statutes. Transfers may require the issuance of new debt instruments if more than one type of loan is used in financing a project or if the loans were obligated in different fiscal years.

The estimated burden to comply with the preparation of new debt instruments is 2 hours and estimated number of respondents is 10 (based on current caseload and previous experience).

- **Management Agreements**

When a Rural Development financed facility is to be leased or managed by other parties, the borrower must furnish the Agency with copies of the proposed management agreement for approval. This approval is necessary to protect the Government's interest. The borrower is ultimately responsible for operating, maintaining and managing the facility even though the functions are performed by a third party under a management agreement.

The estimated burden to comply with the requirement is 1 hour and the estimated number of respondents is 100 (based on current caseload and previous experience).

- **Surveying lenders**

Rural Development annually contacts lenders to determine if other credit is available to refinance RUS debt. Interested lenders must provide information on the types of loans and amounts they would consider for financing. This information is necessary to comply with Rural Development's graduation requirements. Participation by lenders is optional and the requirement is necessary to fulfill the Agency's responsibility to provide credit only when it is not available from commercial sources.

The estimated burden to comply with the survey request is 1 hour and the estimated number of respondents is 250 (based on current caseload and previous experience).

- **Written evidence**

Borrowers unable to graduate must provide Rural Development with written evidence of their inability to secure commercial financing. This requirement provides the Agency with written documentation to support a borrower's position that they cannot graduate their Rural Development debt.

The estimated burden to comply with this requirement is 1 hour and the estimated respondents are 100 (based on current caseload and previous experience).

- **Written repayment agreement**

Borrowers subject to the Treasury Offset Program are provided the opportunity to avoid being submitted by entering into a written repayment agreement. This agreement allows a borrower to avoid having future Federal assistance payments offset by agreeing to a new repayment agreement.

The repayment agreement is prepared by Rural Development, signed by the borrower, and the estimated burden is 1 hour and includes an estimated 3 respondents (based on current caseload and previous experience).

- **Rescheduling Agreement**

The Agency requires Exhibit E to be completed whenever the borrower is requesting to reschedule debt.. It is sometimes advantageous for borrowers to reschedule debt instead of issuing a new debt instrument to effect reamortization of a loan. The Agency provides Exhibit E to Staff Instruction 1782-1, which may be used for this purpose. Since the Agency prepares such agreements and the borrower's time is limited to that needed to review, authorize, and execute the agreement, the time required is estimated at 30 minutes for ten respondents (based on current caseload and previous experience).

## **REPORTING REQUIREMENTS – FORMS APPROVED UNDER OMB NUMBERS**

- **Application to Subordinate, Form RD 465-1**

Borrowers requesting approval to subordinate Rural Development debt must submit Form RD 465-1. This form is necessary in order for the Agency to approve any subordination requests, junior liens, or partial release from the terms of real estate security instruments. The burden to comply with this requirement is limited to the time necessary to prepare Form RD 465-1. This form is cleared under docket 0560-0158.

- **Balance Sheet, Form RD 442-3**

A balance sheet is needed to perform a thorough graduation review to determine if the borrower has the financial capability to secure financing from commercial sources. This form is approved under docket 0575-0015.

- **Operating Budget, Form RD 442-7**

Borrowers requesting parity, for projects where construction is involved, will submit Form 442-7 with their request for parity documenting the operating budget for the project. This form is approved under docket 0575-0015.

- **Statement of Budget, Income, & Equity, Form RD 442-2**

This form is required to perform a thorough graduation review to determine if the borrower has the financial capability to secure financing from commercial sources. This form is approved under docket 0575-0015.

- **Assurance Agreement, Form RD 400-4**

This form is prepared by Rural Development and signed by borrowers purchasing or exchanging property. It establishes that the property will be used for similar purposes that the loan or grant was made and the borrower will comply with all the civil rights provisions contained in 7 CFR Part 1901. The impact on the borrower is limited to the time required to read and include a signature on Form RD 400-4. This form is approved under 0575-0018.

- **Letter of Conditions, Form RD 1942-46**

Borrowers must sign form RD 1942-46 prior to the Agency approving all transfers. This document is necessary because it outlines conditions related to the operation of the facility and repayment of the loan that the borrower must adhere to. This form is approved under docket 0575-0015.

- **Assumption Agreement, Form RD 1951-15**

Borrowers must sign an assumption agreement to finalize a transfer and assumption of Agency debt. The form is used to effect the transfer of Rural Development loans to a different entity and this form establishes the effective date of the transfer. This form is approved under docket 0575-0066.

- **Workout Agreement, Form RD 1951-10**

Borrowers unable to bring their delinquent accounts current will be requested by the Agency to adopt a workout agreement. This agreement is necessary in order to develop a plan to eliminate the delinquent amount and provide written documentation of the steps to be taken to ensure the agreement is completed as planned. This form is approved under docket 0575-0066.

- **Application for Settlement of Indebtedness, Form RD 1956-1**

Prior to approving debt settlement actions, Rural Development must prepare and the borrower must sign Form RD 1956-1. This form is prepared to effect a write-off of a borrower's Rural Development debt. This form is approved under docket 0575-0118.

- **Reamortization Request, Form RD 1951-33**

This form is used to reamortize an existing loan and used to modify the terms of the original loan agreement. The borrower prepares and signs the form with the assistance of the Rural Development servicing official. This form is approved under docket 0575-0066.

- **Offer to Convey Security, RD Form 1955-1**

This form is used to convey real-estate security property to the Government. The borrower prepares and signs the form with the assistance of the Rural Development servicing official. This form is approved under docket 0575-0172.

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.**

Rural Development is committed to E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms associated with this collection are available on the USDA eforms website.

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.**

The information needed in considering eligibility for various servicing options is not captured on other forms. Each form required is unique to that particular servicing benefit. To combine these forms would only serve to confuse the borrower since each benefit has certain responsibilities that must be carried out

by the borrower to continue receiving the benefit. Therefore, no duplication exists. The use of available Agency forms is optional and the borrower may submit the information required on other forms. Other forms or the borrower's forms or documents may be used to consider eligibility for various servicing options. For example, a current balance sheet and statement of revenue is required from the borrower to determine the borrower's financial position.

**5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-1), describe any methods used to minimize burden.**

The collection of information does not impact small businesses or other small entities. The forms are designed to not create an adverse impact on small businesses or entities.

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

The collection of information is only obtained when needed for purposes related to loan security. The information cannot be collected less frequently.

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

- a. Requiring respondents to report information more than quarterly.

Information is submitted based on the request for a servicing action.

- b. Requiring written responses in less than 30 days.

No such requirement

- c. Requiring more than an original and two copies.

The Agency would not request more than an original and two copies of any document.

- d. Requiring respondents to retain records for more than 3 years.

The Agency would not require applicants to retain records for more than 3 years.

- e. That is not designed to produce valid and reliable results that can be generalized to the universe of study.

This collection does not involve statistical information.

- f. Requiring use of statistical sampling which has not been reviewed and approved by OMB.

This collection does not involve statistical sampling.

g. Requiring a pledge of confidentiality.

This collection does not require a pledge of confidentiality.

h. Requiring submission of proprietary trade secrets.

This collection does not require submission of proprietary trade secrets.

**8. If applicable, identify the date and page number of publication in the Federal Register of the Agency's notice soliciting comments on the information collection. Summarize public comments received and describe actions taken by the Agency in response to these comments. 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, reporting format (if any), and on data elements to be recorded, disclosed, or reported.**

As required by 5 CFR 1320.8(d), a Notice to request comments was published as part of the proposed rulemaking on 11/15/04 at 69 FR 65546. The Agency did not receive any comments. As this is a new collection, the proposed rulemaking served as the agency's method to consult with outside parties.

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

There is no payment or gift to respondents.

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

It is the Agency's policy to only release financial and personal information with the borrower's written permission. However, there is no assurance of confidentiality provided to respondents.

**11. Provide additional justification for any question of a sensitive nature, such as sexual behavior or attitude, religious beliefs, and other matters that are commonly considered private.**

Financial information is being requested to determine the eligibility for various servicing benefits. There are no questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information.**

See attached spreadsheet.

Regulation	No. of Respondents	Total Responses	Total Man Hours	Total Costs
7 CFR 1782 S.I. 1782-1	888	523	641	\$18,000

Rural Development estimates the cost to be \$18,000 (rounded up) to respondents to comply with this regulation. The cost is based on 250 organizations submitting servicing information.

The Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification wage rates were used as the basis for the cost estimates. The hourly earnings for a public administration official in a non-metropolitan area is \$28.08.

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.**

**(a) Total capital and start-up cost component (annualized over its expected useful life); and**

There are no capital or start-up costs required.

**(b) Total operation and maintenance and purchase of services component.**

There are no operation and maintenance and purchase of services required.

**14. Provide estimates of annualized cost to the Federal Government.**

The annual cost to the Federal Government to administer the activities of this program is estimated to be \$4,687,690. This cost was derived by proportionally distributing the FY 2007 Salary and Expense appropriation for Rural Development. This includes staff time and overhead costs such as printing, publication of regulations, travel, etc. Staff time will vary based on the number of problem projects and delinquencies that need monitoring and servicing. The annualized cost to the Government is \$4,687,690 and was calculated as follows:

- 150 RUS employees nationwide working on servicing actions.
- GS 12, step 5, is the average grade for a loan analyst working on servicing actions.
- 35 percent of these employees time is spent on servicing duties.
- 18 percent for overhead.

(150 employees X \$75,671 – GS 12/5 X 35% work time X 18% overhead = \$4,687,690).

**15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-1.**

This is a new collection and attributed to a program change.

A correction worksheet is being submitted for 0572-0066 to reduce burden by 175 hours. The hours are now cleared in this package.

In addition, from the proposed rule stage to the final rule stage there has been a reduction of 80,335 hours. The agency has determined that some of the burden items included at the proposed rule stage were covered in another burden package and that there was a duplication of reporting burden.

Also, a correction worksheet for 0575-0015 is being submitted to ensure that the correct hours are included for purposes of servicing for use of RD Form 442-2 and 442-3. 0575-0015 will be increased by 1,750 hours. The hours previously reported for servicing actions under 0575-0015 were 23 hours.

**16. For collection of information whose results will be published, outline plans for tabulation**

**and publication.**

There are no plans for publication.

**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.**

N/A

**18. Explain each exception to the certification statement identified in item 19 on OMB 83-1.**

There are no exceptions requested.

**B. Collection of Information Employing Statistical Methods.**

This collection does not employ statistical methods.