

The Supporting Statement for OMB 0596-0178
Special Areas - State Petitions for Inventoried Roadless Area
Management
February 2008

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Laws, Statutes, and Regulations

- 16 USC § 475, 511 (National Forest Organic Act of 1987)
- 16 USC § 1600-1604, 1608-1610, and 1611-1613 (Forest Rangeland Renewable Resources Planning Act of 1974, National Forest Management Act of 1976)
- 36 CFR 294

The Forest Service has the authority to collect relevant information pertinent to the management of national forests. The current United States code outlines these authorities in USC Title 16 (Sections 475 and 511) derived from the National Forest Organic Act of 1897 and in USC Title 16 (Sections 1600-1604, 1608-1610, and 1611-1613) based on the Forest and Rangeland Renewable Resources Planning Act of 1974 and the National Forest Management Act of 1976.

On January 12, 2001, the USDA promulgated the Roadless Rule at 36 CFR 294. The Rule changed the Forest Service's longstanding approach to management of inventoried roadless areas by establishing nationwide prohibitions limiting, with some exceptions, timber harvest, road construction, and road reconstruction within inventoried roadless areas on National Forest System (NFS) lands. Prior to the Roadless Rule, management direction for these areas was developed for each individual NFS unit through the local land management planning process.

During the development of the Roadless Rule, several western state governors requested and were denied cooperating agency status to assist with the preparation of the rule and accompanying environmental impact statement. The Roadless Rule has been the subject of nine lawsuits, five of which were brought by states. On July 14, 2003, in the State of Wyoming v. USDA lawsuit, the U.S District Court for the District of Wyoming issued a permanent injunction and set aside the Roadless Rule (State of Wyoming v. USDA No. 010CV086-B (D. Wyo)).

After that decision, the Forest Service established an individual state petitioning process in 36 CFR Part 294. This rule was published in the Federal Register on May 13, 2005. State and territorial governors use the petitioning process to seek establishment of management requirements for NFS inventoried roadless areas within their states. Associated with that final rule was an information collection

for the petitions described in the rule.

On September 19, 2006, the United States District Court for the Northern District of California issued an order setting aside the state petitions rule (*People of the State of California, ex rel Lockyer v. US Dept. of Agriculture*, No. C05-03508-EDL (N.D. Cal.)). This decision is currently under appeal to the Ninth Circuit Court of Appeals.

The Forest Service is seeking to renew this currently approved information collection in order to extend the time for collecting petitions if the Rule is reinstated. If the Rule were reinstated, the petitions would be evaluated and submitted to the Secretary of Agriculture. After the Secretary of Agriculture's acceptance of the petitions, the Forest Service would initiate state-specific rulemaking for the management of inventoried roadless areas in cooperation with the state or territory involved in the petitioning process.

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.

a. What information will be collected - reported or recorded? (If there are pieces of information that are especially burdensome in the collection, a specific explanation should be provided.)

The petition shall provide:

- (1) the location and description of the particular lands for which the petition is being made, including maps and other appropriate resources in sufficient detail to enable consideration of the petition;
- (2) the particular management requirements sought and any exceptions;
- (3) the identification of the circumstances and needs intended to be addressed by the petition;
- (4) a description of how the management requirements identified in item (2) differ from the existing applicable land management plan(s) or policies related to the management of those lands;
- (5) a description of how the management requirements identified in item (2) compare to existing state land conservation policies and direction set forth in any applicable state land and resource management plans;
- (6) a description of how the recommended management requirements identified in item (2) would affect fish and wildlife that utilize the particular lands in question; and
- (7) a description of any public involvement efforts undertaken by the state during development of the petition, including efforts to engage local governments and persons with expertise in fish and wildlife biology, fish and wildlife management, forest management outdoor recreation, and other important disciplines.

b. From whom will the information be collected? If there are different respondent categories (e.g., loan applicant versus a bank versus an appraiser), each should be described along with the type of collection activity that applies.

From the governors of states and territories

c. What will this information be used for - provide ALL uses?

The Secretary shall review petitions and may request additional information from a petitioner before deciding whether to accept a petition. If the Secretary requests additional information from a petitioner, the petition will be considered complete when the petitioner provides the additional information. The Secretary or Secretary's designee shall respond to the petition within 180 of receipt of a completed petition. The response shall accept or decline the petition to initiate a state-specific rulemaking.

d. How will the information be collected (e.g., forms, non-forms, electronically, face-to-face, over the phone, over the Internet)? Does the respondent have multiple options for providing the information? If so, what are they?

There are no forms associated with submitting a petition. The petition shall be submitted in writing and contain all of the required information (see item 2a) in the appropriate format for the Secretary to review and make a decision to approve or deny the petition.

e. How frequently will the information be collected?

The information will be collected one time only from each petitioner.

f. Will the information be shared with any other organizations inside or outside USDA or the government?

Information will be available for public review. If a petition is approved, all information will be contained in the subsequent state-specific rulemaking.

g. If this is an ongoing collection, how have the collection requirements changed over time?

This is a request for renewal of a currently approved information collection. Collection requirements have not changed over time.

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. Also, describe any consideration of using information technology to reduce burden.

Petitions shall be submitted in writing and contain the required information (as indicated in item 2a). The state may submit any supporting information that may be helpful to the Secretary in reviewing the request to undertake a state-

specific rulemaking for inventoried roadless area management. Submissions may be made by mail or electronically.

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 required for a petition is specific to the existing management requirements for inventoried roadless area lands in a specific state, and the unique or special circumstances that the governor describes that support the request to establish or adjust those management requirements. This information collection does not duplicate any currently existing information collection.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden

The collection of this information does not impact small business or other small entities.

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

The decision to submit a petition to the Secretary is strictly voluntary. In the absence of a petition to establish or adjust management requirements for inventoried roadless areas by a Governor, the existing management requirements contained in the Roadless Rule (36 CFR Part 294 of January 12, 2001) that is currently in effect contain management requirements for roadless areas and individual forest plans also have additional management requirements for roadless areas. If the ongoing litigation results in the removal of this the Roadless Rule, the management requirements of the forest plan apply. If the roadless rule of 2005(36 CFR Part 294 May 13, 2005) is reinstated, not conducting these collections would delay the ability of individual states to prepare state petitions under that rule.

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

a. Requiring respondents to report information to the agency more often than quarterly;

b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;

c. Requiring respondents to submit more than an original and two copies of any document;

d. Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;

e. In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the uni-

verse of study;

- f. Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- g. That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- h. Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

A Federal Register Notice asking for comment on the renewal of this information collection was published on November 20, 2007 (72 FR 65288). The Forest Service received no comments in response to the notice.

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 record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Four individuals were contacted and asked to comment on this information collection.

- **Tom Perry**, Governor's Office, State of Idaho, 208-337-2189; he worked on preparing a petition for the State of Idaho.

Comments:

- o There were no real problems in finding available data to begin the petitioning process, but that later some work was needed after preparing the petition to reconcile some information related to roadless areas.
- o The frequency of collection of information for these petitions (one-time only) was sufficient and there was no need for greater frequency.
- o Instructions for preparing the petitions were reasonably clear and that data elements were understood.
- o It was also clear that the petitions would be disclosed into the public arena and although there were no requirements to retain copies of the petition, the State has opted to do so.
- **Carol Leach**, General Counsel for the New Mexico Energy, Minerals, and Natural Resources Department, 505-476-3210.

Comments:

- o Completing the petition for the State of New Mexico there was sufficient information to prepare the petition.
- o A one-time collection of petition is sufficient for preparing a petition under this kind of rule.
- o Instructions were adequately clear and there was good contact from the Forest Service to address questions.
- **Jennifer Bumgarner**, Policy Advisor Office of the Governor for the State of North Carolina, 919-733-5811.

Comments:

- o Fairly straightforward to get information on Roadless areas and that the State had a good working relationship with the Forest Service.
- o The frequency of collection worked fine for North Carolina and there was no need to add to the frequency of collection.
- o There was minimal guidance and no clear specifications on what a petition needed to contain.
- o North Carolina was one of the first states to file a petition and used best guess on what important elements to include in the petition. It was unclear what level of detail was needed for the petition. For data elements, the State relied on Forest Service inventories for roadless areas.
- o There were no record keeping requirements, but the petition and internal papers related to the petition were retained in State files.

- o The State was aware that submission of the petition also meant public disclosure of the petition.
- o There were no clear reporting formats and it was unclear how to organize the petitions.
- **Paul Orbuch**, Assistant Director, Colorado Department of Natural Resources, 303-866-3311. Paul was not involved in the preparation of the initial state petition for Colorado, but was familiar with the process and offered limited comments.

Comments:

- o No comments on the availability of data for the state petitions or clarity of instructions.
- o Since the petition had been submitted, frequency of collection was no longer applicable to Colorado.
- o The State is keeping records of its petition and there were no particular issues with the data elements that were needed for the petition.

9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.

No payment or gift is provided to states that submit a petition; however, the Department of Agriculture has responded to requests from states for financial assistance in the preparation of petitions. Between September 21, 2005 and September 8, 2006, the Department received requests from six states for financial assistance in preparing petitions. These requests totaled \$1,736,000. The Department responded to these requests by granting financial assistance totaling \$865,000 to five states (Arizona, California, Colorado, Idaho, and New Mexico) for preparation of petitions.

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

All information submitted to the Secretary of Agriculture with a state petition shall be available for examination by the public.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No information is being collected that is sensitive or personal in nature.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual

hour burden, and an explanation of how the burden was estimated.

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
 - a) **Description of the collection activity**
 - b) **Corresponding form number (if applicable)**
 - c) **Number of respondents**
 - d) **Number of responses annually per respondent,**
 - e) **Total annual responses (columns c x d)**
 - f) **Estimated hours per response**
 - g) **Total annual burden hours (columns e x f)**

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(a) Description of the Collection Activity	(b) Form Number	(c) Annual Number of Respondents	(d) Number of responses annually per Respondent	(e) Total annual responses (c x d)	(f) Estimate of Burden Hours per response	(g) Total Annual Burden Hours (e x f)
State petitions	None	12	1	12	1,000	12,000

While 36 states could submit petitions, burden has been calculated on an average of 12 states per year submitting petitions (36 states ÷ 3 years = 12 states/year).

- **Record keeping burden should be addressed separately and should include columns for:**
 - a) **Description of record keeping activity:** None
 - b) **Number of record keepers:** None
 - c) **Annual hours per record keeper:** None
 - d) **Total annual record keeping hours (columns b x c):** Zero
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

(a) Description of the Collection Activity	(b) Estimated Total Annual Burden on Respondents (Hours)	(c)* Estimated Average Income per Hour	(d) Estimated Cost to Respondents
State petitions	12,000	20.72	\$248,640

1)

2) Estimated average income per hour was calculated using the average income per hour for business and professional services, \$20.72, taken from the Bureau of Labor News Release on Real Earnings for January 2008. This news release can be found at <http://www.bls.gov/news.release/pdf/realer.pdf>

- 13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.**

There are no capital operation and maintenance costs.

- 14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

The response to this question covers the actual costs the agency will incur as a result of implementing the information collection. The estimate should cover the entire life cycle of the collection and include costs, if applicable, for:

- **Employee labor and materials for developing, printing, storing forms**
- **Employee labor and materials for developing computer systems, screens, or reports to support the collection**
- **Employee travel costs**
- **Cost of contractor services or other reimbursements to individuals or organizations assisting in the collection of information**
- **Employee labor and materials for collecting the information**
- **Employee labor and materials for analyzing, evaluating, summarizing, and/or reporting on the collected information**

There are no federal expenses related to developing or storing forms, for developing computer systems, or for contractor services. There are some expenses anticipated in the collection of the information and federal employee travel expenses associated with the connection. There would also be expenses associated with the analysis and evaluation of the collection of information to make a determination as to whether to accept the petition and proceed with individual state rulemaking

The following assumptions were used to create the following table:

- Each individual was a Step 5 pay grade; and
- The 2008 General Pay Schedule for the Federal Government was used.
- Based upon the experience described under question 8 above, it is estimated that an average state would receive approximately \$100,000 in assistance for preparing a petition. The five states that were granted assistance are states that have many roadless areas and, generally, the remainder of the 36 states in question contain substantially fewer roadless areas than these five states individually.

The following table explains how the estimated cost was calculated for the Forest Service to process and administer a single state petition.

Estimated Costs to Collect/Evaluate a State Petition

ACTION ITEM	PERSONNEL	GS LEVEL	HOURLY RATE*	HOURS	SALARY	COST TO GOVT*
Communication with Representatives of State Governors on roadless area petitions preparation	WO Roadless Lead	14	\$42.96	60	\$2577.60	\$3350.88
	RO Planning Specialist	13	\$36.36	80	\$2908.80	\$3781.44
	RO Planning Specialist	13	39.36	80	\$2908.80	\$3781.44
Analysis and Evaluation of	WO Roadless Lead	14	\$42.96	80	\$3436.80	\$4467.84

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Petition	WO Planning Specialist	14	\$42.96	80	\$3436.80	\$4467.84
	WO Planning Specialist	13	\$36.36	120	\$4362.00	\$5672.16
	RO Planning Specialist	13	\$36.36	120	\$4362.00	\$5672.16
	RO Planning Specialist	11	\$25.51	120	\$3061.20	\$3979.56

Estimated Costs to Collect/Evaluate a State Petition (continued)

ACTION ITEM	PERSONNEL	GS LEVEL	HOURLY RATE*	HOURS	SALARY	COST TO GOVT*
Determination of accepting petition and proceeding to rulemaking	WO Roadless Lead	14	\$42.96	20	\$859.20	\$1116.96
	WO Planning Specialist	14	\$42.96	20	\$859.20	\$1116.96
	WO Asst Director	15	\$50.54	10	\$505.54	\$657.20
	Senior Executive Employees of Forest Service and USDA *	L4	\$71.43	30	\$2142.90	\$2785.77
Travel connected with communicating with representatives of state governors on roadless area petition preparation. <ul style="list-style-type: none"> • Two R/T coach ticket • Lodging for 2 for 3 nights • M&IE expenses for 2 for 3.5 days 	National/Regional/Forest Roadless Coordinators					\$588.00
						\$612
						\$413
Financial assistance granted to states to prepare petitions						
\$100,000						
TOTAL						\$142,463.21

* Assume Level 4 salary \$149,000 for Senior Executive employees of the Forest Service and the Department of Agriculture (OPM Salary Table 2008-EX) or \$71.43/HR. Other rates are taken from http://www.opm.gov/oca/08tables/pdf/g_s_h.pdf, Cost to Government calculated at hourly wage multiplied by 1.3.

Travel costs assume state is Arizona. Cost assumes one roundtrip flight from Washington to Phoenix and one round trip flight from Albuquerque (Regional Office) to Phoenix. Cost assumes three nights at per diem hotel and 3.5 days per diem CONUS rates for Phoenix. Phoenix is selected as a typical state capital in terms of travel expense.

If all states submit petitions, the total cost for processing and evaluating the petitions would be about \$5,128,675 for all 36 states or \$1,709,558 per year to process 12 petitions. As stated elsewhere in this paper, there is considerable uncertainty as to how many states are likely to submit petitions.

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

The rule for which this collection is authorized is currently enjoined. The total estimate of states that could submit petitions has been reduced from 39 to 36 as the roadless situation has been resolved for Alaska and the states of Idaho and Colorado have petitions that are currently in process. While 36 states could submit petitions, burden has been calculated on an average of 12 states per year submitting petitions (36 states ÷ 3 years = 12 states/year).

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

There is no intent to publish state petitions, but these petitions will be part of the public record and are part of rulemaking record for the State submitting the petition.

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.

The Forest Service is not requesting approval to omit display the expiration date for OMB approval of the information collection.

18. Explain each exception to the certification statement identified in item 19, "Certification Requirement for Paperwork Reduction Act."

The agency is able to certify compliance with all provisions under item 19 of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.