

**SUPPORTING STATEMENT
ENVIRONMENTAL COMPLIANCE QUESTIONNAIRE FOR NATIONAL OCEANIC
AND ATMOSPHERIC ADMINISTRATION FEDERAL
FINANCIAL ASSISTANCE APPLICANTS
OMB CONTROL NO. 0648-0538**

A. JUSTIFICATION

This request is for a renewal of this information collection.

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

This information collection is needed to ensure that all projects supported by the National Oceanic and Atmospheric Administration (NOAA) through grants or other financial assistance awards comply with the [National Environmental Policy Act](#) (NEPA 42 U.S.C. 4321-4347), the Council on Environmental Quality's (CEQ) Regulations for Implementing NEPA ([40 CFR 1500-1508](#)), and [NOAA Administrative Order 216-6](#). The National Environmental Policy Act and CEQ implementing regulations require that an environmental analysis be completed for all major federal actions significantly affecting the environment. Those federal actions may include a federal agency's decision to fund non-federal projects under grants and cooperative agreements. In order to determine NEPA compliance requirements for a project being funded by NOAA, NOAA must assess information which can only be provided by the federal financial assistance applicant.

Each fiscal year, NOAA publishes Announcements of Federal Funding Opportunity in the [Federal Register](#) inviting applications from persons who are interested in obtaining grants to carry out a wide variety of projects. The solicitations contain a description of the grant program, along with evaluation criteria and weights. Applications for federal financial assistance are submitted through [grants.gov](#). In addition, NOAA also awards non-competitive grants.

In Fiscal Year 2005, NOAA awarded approximately 1,500 grant projects, supported by \$971,957,088. It is critical to ensure that an adequate level of detail is provided in every grant application to allow the agency to evaluate the environmental impacts, as required by NEPA, of activities conducted through the support of NOAA funds.

NOAA is responsible for regulatory compliance and must be provided with all of the relevant project information to determine the level of NEPA review and to prepare the subsequent NEPA analysis. The NEPA analysis must be completed prior to awarding any grant. Recipient cooperation to provide NOAA with specific project and environmental information has been an on-going issue. Despite detailed application instructions that outline what information is needed, applicants often do not provide NOAA with the appropriate level of project detail in their applications necessary for NOAA to make NEPA determinations and prepare the subsequent analysis. The information collection tool (questionnaire) was developed to collect all relevant project information required to comply with NEPA and expedite both the NEPA and award processes.

The questionnaire includes questions that encompass a broad range of subject areas. Applicants will not be required to answer every question in the questionnaire. Each program will draw from the comprehensive list of questions to create a relevant subset of questions for applicants to answer. It is the responsibility of the Federal Program Officer and/or NEPA Coordinator, in coordination with the NOAA Grants Division, to incorporate applicable questions into each Announcement of Federal Funding Opportunity or other solicitation announcement. Programs may also choose not to include the questionnaire as part of the application requirements, but to follow up with applicants via mail/email/phone to collect the required information. In addition, applicants conducting activities that have been identified to consistently qualify for a categorical exclusion (i.e., modeling, GIS mapping, planning activities, etc.) would not be required to complete the questionnaire or provide the information by any other means.

2. Explain how, by whom, how frequently, and for what purpose the information will be used.

The information collected as part of the regulatory review of grant proposals will be used by NOAA Federal Program Officers, NOAA NEPA coordinators, NOAA NEPA analysts, DOC attorneys, and NOAA attorneys to determine the applicability of NEPA to the activity to be funded. If NEPA applies to the activity, the information would be used to determine the level of NEPA analysis required and for preparation of the analysis.

The collected information would also be a key element of “frontloading” the NEPA process and determining, along with the required level of NEPA analysis, additional regulatory requirements, such as the need for any permits or consultation that would also be subject to NEPA. For example, information provided as part of the regulatory review questionnaire would help program staff determine the need for Magnuson-Stevens Fishery Conservation and Management Act (MSA) Exempted Fishing Permits, Section 7 consultation under the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA) incidental authorization permits, and National Marine Sanctuary permits.

The information would be collected from grant applicants as part of the application package and reviewed during the application review process.

Section A of the questionnaire includes general questions that provide NOAA information about the project, information for NEPA compliance, and information regarding other regulatory reviews that may need to be completed or have been completed. NOAA will use this information to determine the level of NEPA analysis required, for preparation of the analysis, and to gather information on other environmental documents that may have been prepared for the activity.

Section B of the questionnaire includes questions regarding funding of the proposed activity. NOAA will use this information to determine the level of NOAA and other federal agency funding of the activity. This information will be used to determine the applicability of NEPA to the activity to be funded.

Section C of the questionnaire includes questions regarding the level of NOAA and other federal agency involvement of the proposed activity. This information will be used to determine the applicability of NEPA to the activity to be funded.

Section D of the questionnaire includes questions regarding the location of the proposed activity. NOAA will use this information to determine the level of NEPA analysis required and for preparation of the analysis.

Section E of the questionnaire includes questions regarding permits, authorizations or waivers that may be required to conduct the proposed action. NOAA will use this information to determine the level of NEPA analysis required, for preparation of the analysis, and to gather information on other environmental documents that may have been prepared for the activity.

Section F of the questionnaire includes questions regarding potential impacts of the proposed action. NOAA will use this information to determine the level of NEPA analysis required and for preparation of the analysis.

Section G of the questionnaire includes questions for activities related to damage assessment and restoration. NOAA will use this information to determine the level of NEPA analysis required and for preparation of the analysis.

Section H of the questionnaire includes questions for activities related to fisheries research and sampling. NOAA will use this information to determine the level of NEPA analysis required and for preparation of the analysis.

As explained in the preceding paragraphs, the information gathered has utility. NOAA will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NOAA decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The responses to the questions may be developed on a personal computer. Electronic submission of the information to be collected will be encouraged but not required. No other type of information technology is necessary to collect the majority of information that will be requested. The downloadable and fillable form will be available from the Grants Management Division website: <http://www.ago.noaa.gov> and may be submitted via e-mail.

4. Describe efforts to identify duplication.

There are no other collections that gather similar information. The information requested is unique to each financial assistance proposal. No duplication of effort exists with other Federal Government information collection efforts. Some of the questions may overlap with material provided in other parts of the federal financial assistance application. This overlap occurs

because the answers to the questionnaire are provided to NOAA staff who do not review the other parts of the application. If appropriate, the applicant may copy the information from other parts of the application and paste it into the answers to the questionnaire.

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

The information to be collected is very basic in its nature and should not be a hardship or burden for small entities that receive NOAA funds to produce this information. Furthermore, the applicant conducting the research or applying for funds should already have this information available as part of their research or project plan.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Detailed project information must be collected for every unique grant application in order to determine NEPA compliance requirements and to prepare the subsequent NEPA analysis. If detailed project specific information is not collected upfront from the applicant, NOAA staff must request and wait for additional information from the federal financial assistance applicants in order to fully implement NEPA. This may cause several weeks of delays in awarding and distributing federal financial assistance (grant) awards. If proper NEPA documentation cannot be completed for a particular activity, project or program, NOAA is not authorized to award or release any funds to the project or program applicant.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The proposed collection of information will be conducted in a manner that is consistent with OMB guidelines.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the 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, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on January 28, 2009 (74 FR 4941) solicited public comment on this information collection. No substantive comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to any of the respondents.

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

The information collection does not request any proprietary or confidential information. No confidentiality is provided.

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

No information of a sensitive nature is collected.

12. Provide an estimate in hours of the burden of the collection of information.

It is estimated that 1,000 financial assistance applicants will complete the questionnaire. Depending on the number of questions the respondent is asked to answer, it is estimated to take the respondent 1 to 3 hours to complete the questionnaire. It is estimated to take most respondents 1 hour to complete the questionnaire. However, there is one grant program that may require respondents to answer numerous questions and it may take up to 3 hours for that group of respondents to answer the questionnaire. To account for the burden hours, the maximum number of hours was used. It is estimated that it will take the respondent no more than 3 hours to complete the questionnaire. The maximum total annual estimated burden hours will be 3,000.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.

If the information is submitted electronically, this collection will incur no cost burden on respondents beyond the cost of response time (assuming the respondent has a computer). If respondents opt to copy or print the questionnaire it is estimated to cost \$0.05 per page, or \$0.50. Mailing would cost of \$0.42 per envelope for standard mailing. If all respondents chose to copy and mail the questionnaire, the estimated maximum cost would be \$0.92 per respondent, for a total annual cost of \$920.00. However, it is assumed that most respondents would submit the information electronically.

14. Provide estimates of annualized cost to the Federal government.

It is estimated that reviewing and distributing the information provided in the questionnaire will require 3 hours of an FTE's time per application reviewed. With an annual average salary of \$24.00 an hour per FTE, it is estimated that each application reviewed will cost the government \$72.00 for a total of \$72,000 annually.

15. Explain the reasons for any program changes or adjustments.

There are no program changes or adjustments. NOTE: the actual reporting/recordkeeping cost is \$920. Because the cost was rounded off when the information collection was migrated to ROCIS, there is an apparent decrease in cost from \$1,000.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results of this collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

The National Environmental Policy Act (42 U.S.C. 4321-4347)

Sec. 102

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Council on Environmental Quality's Regulations for Implementing NEPA (40 CFR 1500-1508)

Sec. 1500.1 Purpose

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.

Sec 1508.18 Major Federal Action

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (Sec. 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (Secs. 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

1. Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

2. Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.
3. Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.
4. Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

NOAA Administrative Order Series 216-6

Section 4. Definitions

4.01b. Applicant. Any party who may apply to NOAA for a Federal permit, funding, or other approval of a proposal or action and whose application should be accompanied by an environmental analysis. Depending on the program, the applicant could be an individual, a private organization, or a Federal, state, tribal, territorial, or foreign governmental body. RFMCs are not considered applicants because of their unique status under Federal law.

4.01m. Major Federal Action. An activity, such as a plan, project or program, which may be fully or partially funded, regulated, conducted, or approved by a Federal agency. “Major” reinforces, but does not have a meaning independent of “significantly” as defined in Section 4.01.x. and 6.01. of this Order. Major actions require preparation of an EA or EIS unless covered by a CE (40 CFR 1508.18). CEQ’s definition of “scope” regarding the type of actions, the alternatives considered, and the impacts of the action should be used to assist determinations of the type of document (EA or EIS) needed for NEPA compliance (40 CFR 1508.25).

Section 5. Implementing Procedures

5.01a. General. Environmental review is the process undertaken by the RPM to identify the scope of environmental issues related to the proposed action, to make decisions that are based on understanding the environmental consequences of the proposed action, and to determine the necessary steps for NEPA compliance (40 CFR 1500.2). Such an analysis must be undertaken for any major Federal action that is subject to NEPA. A similar analysis must be undertaken under E.O. 12114 for certain proposed major Federal actions not otherwise subject to NEPA with environmental effects outside US jurisdiction. See Section 7.01 of this Order for guidance on NEPA compliance for international treaties, commissions, and compacts. The procedures for NEPA compliance with domestic laws, regulations, executive orders, and administrative orders may differ depending on whether the proposed action is a management plan or amendment, a research project, a construction project, regulation, or an emergency action. Section 6. of this Order addresses these differences in detail.

5.01b.3. In those cases where programs or actions are planned by Federal or non-Federal agency applicants as defined in Section 4.01b. of this Order, the RPM will, upon request, supply potential applicants with guidance on the scope, timing, and content of any required environmental review prior to NOAA involvement (see Section 5.08 of this Order for more

information).

5.08 Actions Proposed by Applicants. Any applicant to NOAA regarding a proposed action (e.g., permit, funding, license, or approval of a proposal or action) must consult with NOAA as early as possible to obtain guidance with respect to the level and scope of information needed by NOAA to comply with NEPA.

[Federal Register: January 28, 2009 (Volume 74, Number 17)]
[Notices]
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From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr28ja09-17]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Continued Information Collection; Comment Request; Questionnaire
To Support Review of Federal Assistance Applications

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 30, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be

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directed to Cristi Reid, (301) 713-1622 x206 or Cristi.Reid@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 through 4327) and the Council on Environmental Quality (CEQ) implementing regulations (40 CFR parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions significantly affecting the environment. NEPA applies only to the actions of Federal agencies. While those Federal actions may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements, NEPA requires agencies to assess the environmental impacts of actions proposed to be taken by these recipients only when the Federal agency has sufficient discretion or control over the recipient's activities to deem those actions as

Federal actions. To determine whether the activities of the recipient of a Federal financial assistance award (i.e., grant or cooperative agreement) involve sufficient Federal discretion or control, and to undertake the appropriate environmental analysis when NEPA is required, NOAA must assess information which can only be provided by the Federal financial assistance applicant. Thus, NOAA has developed an environmental information questionnaire to provide grantees and Federal grant managers with a simple tool to ensure that project and environmental information is obtained. The questionnaire applies only to those programs where actions are considered major Federal actions or to those where NOAA must determine if the action is a major Federal action. The questionnaire includes a list of questions that encompasses a broad range of subject areas. The applicants are not required to answer every question in the questionnaire. Each program draws from the comprehensive list of questions to create a relevant subset of questions for applicants to answer. The information provided in answers to the questionnaire is used by NOAA staff to determine compliance requirements for NEPA and conduct subsequent NEPA analysis as needed. The information provided in the questionnaire may also be used for other regulatory review requirements associated with the proposed project, such as permitting.

II. Method of Collection

Methods of submittal include paper forms via the mail, Internet, and facsimile transmission.

III. Data

OMB Control Number: 0648-0538.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for profit organizations; individuals or households; not-for-profit institutions; state, local, or tribal government; and Federal government.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 3,000.

Estimated Total Annual Cost to Public: \$1,000 in miscellaneous costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 22, 2009.

Gwellnar Banks,
Management Analyst, Office of the Chief Information Officer.
[FR Doc. E9-1746 Filed 1-27-09; 8:45 am]

BILLING CODE 3510-NW-P