

November 2009

Supporting Statement
7 CFR Subpart 1940-G, Environmental Program
OMB No. 0575-0094

The purpose of this request is to seek an extension of clearance for the reporting requirements contained in the 7 CFR Part 1940, subpart G.

Justification

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

The National Environmental Policy Act (NEPA) requires Federal agencies, prior to the approval of federal actions, to consider potential environmental effects that may impact the quality of the human environment. In order for Rural Development (RD) and the Farm Service Agency (FSA) to comply with NEPA, other environmental laws, regulations and Executive Orders, it is necessary to obtain information from our Applicants regarding their proposals and to determine whether these proposals may affect environmental resources either at the project site or in the project vicinity. The Applicant is the logical source for providing this information. The vast majority of Federal Agencies that assist non-Federal Applicants in sponsoring proposals require prospective Applicants to supply environmental data. Agency review and analysis of any potential environmental impacts of an Applicant's proposed project and FSA or RD's subsequent financial assistance approval action is considered a full disclosure process, and therefore, must involve the public as required by NEPA.

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 information gathered from our Applicants is used by the Agency official processing the application for financial assistance. The environmental information supplied by the Applicant on the proposed project site, construction and operation activities enables the Agency official to determine the magnitude of any potential environmental impacts and whether or not the proposal may be controversial for environmental reasons.

NEPA requires the Agency to determine whether a major federal action has the potential for *significant* environmental impacts and, if so, requires that the Agency prepare an Environmental Impact Statement (EIS). In making this determination, an analysis of alternatives and their resultant environmental impacts on the quality of the human environment must be considered. An Environmental Assessment, a concise public document, is prepared to provide sufficient evidence and analysis for determining whether to prepare an EIS or a finding of no significant impact (FONSI). The Agency collects environmental information to support its decision regarding the need for completing an EIS or FONSI.

The Council on Environmental Quality's (CEQ) regulations for implementing the procedural provisions of the National Environmental Policy Act requires federal agencies to adopt procedures that supplement these regulations. Agency procedures must include specific criteria for and identification of those typical classes of actions that:

- Normally require EISs;
- Normally do not require either EISs or EAs (such actions are referred to as categorical exclusions); and,
- Normally require EAs, but not necessarily EISs.

The classes of actions found in 7 CFR Part 1940, subpart G, were initially developed by the Agency's environmental staff, in consultation with CEQ. Due to the wide range of potential Agency actions in the EA category, the Agency was authorized to subdivide the EA category into Class I actions and Class II actions. Both Class I and Class II actions require the completion of an EA to determine if the specific proposal in question has the potential for a significant impact on quality of the human environment. Class I actions however, typically have less potential for significant impacts than Class II actions. As a result, the EA that the Agency prepares for a Class I action is less detailed than the assessment prepared for a Class II action, thus conserving Agency staff time. Correspondingly, the information required from the Applicant is less for Class I actions than it is for Class II actions.

Specifically, the burden to be cleared with this docket is as follows:

Reporting Requirement - Form

Form RD 1940-20, Request for Environmental Information:

Form RD 1940-20 requires the Applicant to provide environmental information on the proposed project site and activities (construction and operation) to be conducted at the site by the Applicant. The form consists of a checklist and an attachment that includes narration, maps, and photographs. The full narrative covers 17 items ranging from area description and public reaction to alternatives considered, mitigation measures, and applicable permits. For Class II actions the form must be completed in full by the Applicant. For Class I actions only a portion of the form (the checklist and 6 of the 17 items) must be completed by the Applicant. For actions classified as categorical exclusions, the form need not be completed at all. The information provided on this form is the basis for an EA from which the Agency official may determine whether or not an EIS is necessary.

The annual number of respondents is estimated to be 2,416 based on the annual number of loans and grants for multi-family housing, community facilities, business programs and FSA farmer-owned loans.

The public involvement time required to complete the form varies on the complexities of the various proposals being put forward by the Applicant. The average response time to complete the form is expected to be 6-10 hours.

Reporting Requirements - No forms

Publish notifications:

If an Applicant's proposal has the potential to result in environmental impacts on resources, the Applicant may be required to publish a preliminary notice requesting public comment on the proposal in the local newspaper. Following the Agency's completion of a Class II EA and FONSI, the Applicant must publish a final notice or FONSI in the local newspaper. This public notification process is similar to that adopted by many other Federal agencies in complying with NEPA.

Assist in public meetings:

Where a proposal is controversial for environmental reasons or is expected to result in significant impacts, one of the best ways to allow the public to hear and understand more about the proposal, as well as offer comments for avoidance or for possible mitigation of the environmental impacts, is to hold a public meeting. The Applicant is expected to participate in such meetings and to assist by notifying the public of the time and place of the meeting and inviting the public to attend. This could involve publishing a notice of the meeting in a local newspaper, advertising through local radio, and/or posting notices in public places, etc.

Borrower responsibility:

Exhibit M of 7 CFR 1940-G does not deal with NEPA issues, but deals with the wetland compliance (WC) and HEL (Highly Erodible Land) (HEL) compliance provisions of Title XII of the Food Security Act of 1985.

The process for WC and HEL compliance is based on self certification whereby an Applicant for FSA loan services would complete an AD-1026. The AD-1026, depending on how it is answered, triggers a wetland or HEL determination by NRCS who provide FSA with the findings.

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.

Automation of the environmental review process is an important goal of the Agency. Form RD 1940-20 and forms used by Agency staff are available in electronic form online. This is supportive of current initiatives in eGOV to aid customers and staff in reduction of time used in the collection and processing of information. However, because each proposal is unique, some work cannot be done without actual site visits, nor is all environmental information available 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 first question on Form RD 1940-20 is whether a Federal, State, or local EA or EIS has already been prepared for the proposal. If so, the Applicant simply attaches a copy and, if necessary, supplements it with any information that is requested on the form and not addressed in the previous statement or analysis. This is the primary method used for reducing duplication. One example: The Natural Resources Conservation Service (NRCS), a federal agency, collects information routinely from farmers and also conducts environmental reviews. Pertinent information from these NRCS reviews is acceptable in lieu of Form RD 1940-20 from farmers who apply for financial assistance.

Unfortunately, there is very little pre-existing environmental information that can be used, as environmental conditions for proposals are inherently unique to the specific proposal and site. However, with cooperation of the Applicant, other federal and state agencies, there are some opportunities to minimize duplication. By exploiting the opportunities for cooperation, discussions with agencies with special environmental expertise or jurisdiction by law can facilitate planning in a timely manner providing a minimum cost or inconvenience to the Applicant and greatly enhance the efforts of the Agency.

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 burden on small businesses and other small entities is minimized by classifying certain types of activities as categorical exclusions or Class I actions under NEPA and by tailoring the extent to which Form RD 1940-20 is completed for these reviews.

- 7 CFR 1940-G describes a list of Agency actions, generally involving minor projects, which are categorically excluded from NEPA review. The regulation also describes a list of Agency actions that are classified as Class I actions. For these actions, the Agency completes a Class I EA. The Class I EA is done for smaller scale construction projects that require a limited analysis to determine if a significant environmental impact would result. Small-scale entities will benefit most from this classification of actions. There is a strong correlation between the type of Applicant and the size of the proposal: small-scale entities are generally involved with smaller-scale projects. Consequently, many of their applications would fall under the less

burdensome data collection requirements associated with the categorical exclusion and/or Class I EA.

- Tailoring the extent to which Form RD 1940-20 will be used further minimizes the burden on small entities. For categorically excluded actions, the Applicant is not required to complete Form RD 1940-20. An Applicant for a Class I action is required to complete only a portion of Form RD 1940-20. In this way, the impact of Form RD 1940-20 on the number of respondents is minimized with small-scale entities being the primary beneficiaries.
 - Because farmers comprise a major Applicant group, special provisions have been made for them. Farmers who are Applicants for Class I actions need not complete Form RD 1940-20 if a site visit is made by the Agency. Since such a visit is standard practice, most farmers requesting Class I actions will be exempt from completing the form. Additionally, farmers requesting Class II actions need not complete Form RD 1940-20 if a previous environmental review was conducted on the action by the Natural Resources Conservation Service (NRCS) and the Agency can obtain a copy for review and supplementation as necessary.
6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Data for NEPA review is not completed on a periodic basis, but on an application by application basis. Failure to collect it would result in the Agency's noncompliance with NEPA and numerous other Federal environmental laws, regulations and Executive Orders, which have been integrated into our NEPA process.

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.
 - b. Requiring written responses in less than 30 days.
 - c. Requiring more than an original and two copies.
 - d. Requiring respondents to retain records for more than 3 years.
 - e. In connection with a statistical survey, not designed to produce results that can be generalized to the universe of study.
 - f. Requiring use of statistical sampling which has not been reviewed and approved by OMB.
 - g. Requiring a pledge of confidentiality.

h. Requiring submission of proprietary trade secrets.

There are no special circumstances that would cause information collection to be conducted in any manner described in (a) through (h) above.

8. 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.

The 60-day notice for comments on the information collection was published in the Federal Register on November 10, 2009, Vol. 74, Number 216, page 57989. One comment was received from Jean Public. This comment did not involve burden or practicality use and required no agency response.

In September 2009, the Agency consulted with persons outside the agency who were familiar with our requirements for environmental information and public participation. Those persons, listed below, are representative of the types of respondents who are most likely to be subject to the full range of environmental requirements. They were asked to provide an analysis of the public burden associated with the need for environmental information and public participation requirements.

- A. Ms. Brenda Brand
Red-wood Development Inc.
3609 East 20th
Joplin, MS 64801
- B. Mr. Todd Lucas Senior, Vice President, Loan Operations
Business Carolina Inc. Lending Services
1523 Huger Street, Suite A
Columbia, SC 29201
- C. Myles Grotbo, Principal Geologist
AMEC Geomatrix, Inc.
1824 North Last Chance Gulch
Helena, Montana USA 59601

Consultation with the above individuals and organizations revealed minimal differences of opinion on some topics. The largest issue identified is that many users of the form were unfamiliar with environmental laws and the need to comply or how to comply.

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

There is no provision for payment or gift to any respondent.

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

No assurance of confidentiality is provided to respondents. Environmental reviews and their supporting data and information are full disclosure documents and available to the public upon request.

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

The regulation addresses no questions of a sensitive nature.

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

See attached spreadsheet and Item 14. This information is based on the accumulated experience of Agency staff working with the Applicants since this regulation was first promulgated in 1984.

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

There are no capital or operation and maintenance start-up costs.

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

The annualized cost to the Federal Government is estimated to be \$7,581,636. This cost was developed by estimating the number of hours that an Agency employee, at a grade level 12, step 5, (2008 OPM base salary) would spend in completing the required environmental reviews. Categorical exclusions are the most common type of environmental review and are completed by the Agency without help or input from the applicant.

Type of Environmental Review	Number of Estimated Reviews	Hours for Agency to Complete Review	Hourly Rate GS 12 step 5	Total Cost to Agency
Class II Environmental Assessments	645	32	\$32.25	\$665,640
Class I Environmental Assessments	1,771	8	\$32.25	\$456,918

Categorical Exclusions	133,521	1.5	\$32.25	\$6,459,078
Total				\$7,581,636

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

There is a decrease in burden of -9,470 due to a decrease of 623 respondents.

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

The information collected will not be published for statistical use.

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.

It is not cost-effective for the Agencies to display the expiration date on Form RD 1940-20 due to the large number of field offices and the significant difference between offices in the rate of use of this form.

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

There are no exceptions requested.

19. How is the information collection related to the Service Center Initiative (SCI)? Will the information collection be part of the one stop shopping concept?

Under the Service Center Initiative, those Applicants interested in financial assistance from the Agency will be able to obtain information on Agency programs, various application forms (including Form RD 1940-20, "Request for Environmental Information") and guidance on how to complete the forms. The information required by Form RD 1940-20 is specific to an Applicant's proposal and to its proposed location. The applicant is the logical source for this information. Other programs in the center would not collect the information, unless one of these programs was also participating in the financing of the Applicant's proposal. Other agencies in the center, such as NRCS may be an important source for the required information. NEPA and the CEQ's implementing regulations provide measures for reducing duplication of effort and paperwork by including provisions for the adoption of another Federal agency's environmental review and joint preparation (cooperating agencies) of NEPA documents. These provisions are also provided for in RD Instruction 1940-G.

Use of Form RD 1940-20 "Request for Environmental Information" by Program Areas			
Agency	Program	Number of Uses	Total Uses
RBS	Class I EA	304	
	Class II EA	211	
	Total Uses For RBS Programs		515
RHS – MFH	Class I EA	292	
	Class II EA	64	
	Total Uses For MFH Programs		356
RHS - CF	Class I EA	461	
	Class II EA	63	524
	Total Uses For CF Programs		
FSA-FO	Class I EA	714	
	Class II EA	307	
	Total Uses for FSA-FO Programs		1,021
	Total Uses For All Programs		2,416
	<i>Notes:</i>		
	<i>1. Tabulation is based on FY2008 program activity</i>		
	<i>2. Single family housing actions are categorically excluded and are not included in this report.</i>		