

**2013 Supporting Statement
7 CFR 1970, Environmental Policies and Procedures
(OMB No. 0575-NEW)**

7 CFR Part 1970, Environmental Policies and Procedures

The purpose of this request is to seek a new clearance for the reporting requirements contained in the 7 CFR part 1970, subparts A-D. The Rural Development agencies (Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service) (hereinafter referred to as Rural Development (RD)) are consolidating, simplifying, and updating the different agency environmental policies and procedures into a common environmental regulation. The new RD regulation 7 CFR part 1970 (subparts A through D) will replace 7 CFR part 1794, the current RUS environmental regulation (OMB No. 0572-0117) and 7 CFR part 1940, subpart G, the current RHS/RBS environmental regulation (OMB No. 0575-0094). Once 1970 is published the paperwork burden packages under 1794 and 1940-G will be superseded. The Farm Service Agency who is under 7 CFR 1940-G will not be covered under this new rule; they are also drafting new environmental policies and procedures.

A. Justification

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

The National Environmental Policy Act (NEPA) (42 USC 4321 et seq) and other applicable environmental and historic preservation statutes require all federal agencies, to consider and evaluate the potential environmental consequences of their actions on the quality of the human environment before agency decisions are made and prior to it taking an action, i.e., in RD's case it is the approval of financial assistance. In order for RD to comply with NEPA and other environmental laws, regulations and Executive Orders, it is necessary for applicants who are seeking financial assistance to submit project-specific information on their proposals. This information is then used to evaluate the environmental implications of their proposals prior to RD making a decision on whether or not to fund the proposal.

Most RD programs and the projects funded under these programs require the use of design professionals - architectural or engineering consultants. These design professionals assist applicants in preparing preliminary design documents which define the scope of each project proposal and itemize lists of project components. The design documents are required as part of the applications RD receives from eligible applicants to its various programs.

Since applicants are required to submit preliminary design information with their applications, applicants are the logical source for gathering environmental information during early planning and design of their project proposals. Integrating environmental review requirements with early project planning and design is consistent with NEPA policies (Section 102) and requirements in the Council on Environmental Quality's regulations for implementing the procedural provisions of NEPA (40 CFR Part 1500) (40 CFR §§ 1500.2 (c); 1500.5; 1501.1; and 1501.2). RD's approach for requesting project-specific design and environmental information is consistent with

the majority of other federal agencies that assist non-federal applicants in providing financial assistance or permits.

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.

Project specific technical and environmental information gathered and submitted by applicants is used by RD officials in its underwriting and technical evaluation process to determining a project proposal's eligibility for financial assistance. Included in the applicant's information is preliminary design and environmental information that describes the purpose and need for the proposal, analyzes alternatives, potential environmental impacts of the proposal, and outlines cost estimates and other information crucial to the underwriting process. From an environmental perspective, RD officials use this information to evaluate and document the potential environmental impacts of the proposal, and to ensure that proper consultation with local, state, and federal natural resource and regulatory agencies and tribes has been conducted and concluded in accordance with the various environmental and historic preservation laws and review requirements.

Required environmental information from applicants include documentation to support the following levels of NEPA review. Those levels include:

- Categorical Exclusions (CE);
- Environmental Assessments (EA); and
- Environmental Impact Statements (EIS).

As in the two rules 1970 is replacing, 1970 supplements the CEQ regulations by classifying each agency action into the 3 levels of NEPA review described above.

If a project proposal has a potential for significant environmental impacts, agencies are required to prepare an EIS. In making this determination, an analysis of alternatives and the potential environmental impacts on the quality of the human environment must be considered. An EA, a concise public document, is prepared to provide sufficient evidence and analysis for determining whether to prepare an EIS or for the agency to prepare and publish a "finding of no significant impact" (FONSI). RD collects environmental information to support its decision regarding the need for completing an EIS or FONSI.

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

Reporting Requirements - Written

Exhibit B-2, Guidance to Applicants for Preparing Environmental Reports (Categorical Exclusions)

Exhibit C-2, Guidance to Applicants for Preparing Environmental Assessments

Exhibit D-2, Guidance to Applicants for Preparing Environmental Impact Statements

All of the above Exhibits outline the environmental information RD officials need to process each application to comply with NEPA and all of the other environmental laws, regulations, and Executive Orders. As described above the required environmental information includes preliminary design and environmental data that:

- Describes the purpose and need for each proposal;
- Analyzes alternatives;
- Evaluates potential environmental impacts of the proposal for each required environmental resource; and
- Outlines cost estimates and other information crucial for RD officials to process the application.

Each level of NEPA review, i.e., CE, EA, or EIS, requires specific information relative to each action's type of construction and the magnitude of potential impacts.

Publish notifications:

A basic tenet and objective of NEPA and other environmental laws is public involvement. Agencies are required to formally engage the public before the agency makes a decision on its action.

RD's new environmental policies and procedures only require public notices on actions that are classified as EAs or EIS. For EAs applicants will be required to publish public notices in local newspapers in the project area announcing the availability of the EA for public review and comment. At the conclusion of the public comment period and, if appropriate, RD requires applicants to publish a public notice in local newspapers announcing the agency's finding that the proposal will have a FONSI and that an EIS will not be prepared. This public notification process is similar to that used by many other Federal agencies.

Where EISs are prepared, there is an extensive, more formal public involvement process that involves multiple public notices in both local newspapers and the *Federal Register*; most EIS-level projects also require multiple public meetings. The standard EIS public notices for applicants and RD include:

- Notice of Intent to Prepare an Environmental Impact Statement and to Hold Public Scoping Meetings;
- Notice of the Availability of a Draft Environmental Impact Statement and to Hold a Public Meeting to Solicit Public Comments;
- Notice of the Availability of a Final Environmental Impact Statement; and
- Notice of the Availability of a Record of Decision.

Assist in public meetings:

Where a project proposal is controversial for environmental reasons or where an EIS is required, public meetings are typically held to inform the public and solicit comments on the proposal. Applicants are expected to participate in such meetings and to assist by securing a meeting

location, 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 or monthly bills (for utilities), and/or posting notices in public places, etc.

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 for RD. Automating both Exhibits B-2 and C-2 will enable applicants to RD programs to submit environmental information electronically. This is supportive of current initiatives in eGOV to aid customers and staff in reducing time used in the collection, review and processing of information. RD continues to make progress toward accepting electronic submittals of environmental information from applicants and their consultants. Most environmental information and documents from applicants are already submitted electronically to appropriate environmental staff and specific RD programs are developing internal Microsoft SharePoint sites that will be able import the electronic information for collecting, storing, and tracking environmental compliance data for internal purposes and external reporting responsibilities.

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.

Another basic tenet and objective in NEPA (40 CFR §§ 1500.4(n), 1500.5(h); 1502.4(d)) and 1970 (7 CFR §§ 1970.11, 1970.15) is to minimize duplication of efforts. RD has longstanding policies that minimize the duplication of efforts; these policies are implemented by informing applicants to agency programs to come to the agency early in the planning process for their project proposals so that RD officials can advise applicants to all of application requirements including environmental review requirements and to determine if there are other cofunding agencies or partners. The latter is significant in determining whether previous documentation has been prepared and, if cofunding agencies are involved, to encourage the joint preparation of environmental review documents.

In most cases the information being requested by the rule is unique and project specific with little pre-existing environmental information. However, with cooperation of the applicant and other federal and state agencies, there are some opportunities to minimize duplication by using information already collected for similar proposals or for those in the same geographic area. By exploiting the opportunities for cooperation, discussions with agencies with special environmental expertise or jurisdiction by law can facilitate planning in a timely manner.

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.

Ninety percent of RUS electric and water program borrowers, and all telecom borrowers, meet the Small Business Administration criteria for small businesses. Most RBS applicants also meet

these criteria. RD makes every effort to ensure that the information requested is designed to minimize the paperwork burden on small business, especially small engineering and environmental consulting firms. The information collected is the minimum required by the Agency, with respect to both large and small firms, to ensure that the environmental consequences of a proposed action are identified and adequately addressed as required by NEPA. In addition, RD headquarters and field staff are available to consult with and assist firms to the extent possible in preparation of required documents. The burden on small businesses and other small entities is also minimized by classifying certain types of activities as CEs under NEPA and by tailoring the information required to complete Exhibit B-2, Guidance to Applicants for Preparing Environmental Reports.

- 7 CFR Part 1970 reduces environmental review requirements for specific RD programs and eliminates environmental reviews for most loan servicing actions.
- 7 CFR Part 1970 describes a list of Agency actions, generally involving minor projects, which are normally CEs. EAs for smaller scale construction projects require a limited analysis to determine if a significant environmental impact would result. Small-scale entities will benefit most from these classifications. There is a correlation between the type of applicant and the size of the project proposal: small-scale entities are generally involved with smaller-scale projects. Consequently, many of their applications would require the less burdensome data collection associated with a CE.

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 and information needed for NEPA reviews is not completed on a periodic basis, but on an application-by-application basis. Failure to collect the information would result in the Agency's noncompliance with NEPA and numerous other federal environmental laws, regulations and Executive Orders, which have been integrated and coordinated into the agency's 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.

There are no requirements to report information; all information is project specific and associated with specific funding applications.

b. Requiring written responses in less than 30 days.

There is no requirement to respond in less than 30 days.

c. Requiring more than an original and two copies.

There is no requirement of more than original and two copies to be submitted.

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

For RUS programs - record retention requirements shall be in accordance with 7 CFR 1767, part D, and are in agreement with Federal Energy Regulatory Commission's (FERC) "Regulations to Govern the Preservation of Records of Public Utilities and Licensees" at 18 CFR part 125.

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.

This collection does not employ statistical sampling.

g. Requiring a pledge of confidentiality.

There is no requirement of a pledge of confidentiality.

h. Requiring submission of proprietary trade secrets.

There is no requirement to submit proprietary trade secrets.

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.

As required by 5 CFR 1320.8(d), a Notice to request comments was embedded in the proposed rule which published on February 4, 2014 [Vol. 79, No. 23, page number 6740. [No] comments were received related to the publication of the Notice.

Depending on the program, RD officials at State or National Offices maintain close contact with borrowers through general field representatives (GFR), field accountants (FA) or local staff in the States. Field staff have direct personal contact with RD applicants and borrowers on a regular basis to fulfill the Agency's pre and post-loan requirements to provide technical assistance and guidance

The Agency consulted with persons who are familiar with our requirements for environmental information and public participation. These persons are representative of the types of respondents who are most likely to be subject to the full range of Agency programs and environmental requirements. They were asked to provide an analysis of the public burden associated with environmental information and public participation requirements. The Agency contacted the following [number] respondents:

1. Karl Myers
Tri-State Generation and Transmission Association
P.O. Box 33695
Denver, CO 80233-0695
Tel: (303) 452-6111
<mailto:kmyers@tristategt.org>

2. Jim Behnken
JGB Consulting
1605 Monte Largo Dr. NE
Albuquerque, NM 87112
Tel: (505) 298-9542
<mailto:JGB@swcp.com>

3. David McDaniel/Richard Chamberlain
Brazos Electric Power Cooperative
P.O. Box 2585
Waco, TX 76702-2585
Tel: (254) 750-6324
<mailto:dmcdaniel@brazoselectric.com>

All respondents generally stated that the information provided is also required by or can be provided to Federal and State agencies for environmental compliance purposes, in most cases, and is the minimum possible to adequately address environmental issues associated with construction. The three respondents commented that data availability for this collection was good and, as time progresses, more data and databases are available electronically. Respondents noted that for example RUS programs' clearly defined project categories make it easy to determine the proper environmental classifications and requirements for each project. RUS bulletins and guidance are logically written and contain good examples. RD staff are readily available to answer questions via telephone or email thereby reducing the amount of time needed to resolve problems and provide guidance. The ongoing movement to electronic submittal of documents should reduce the time factors in reviewing documents and reduce expense of producing multiple hard copies of documents. All respondents' responses on costs and labor burdens were consistent with existing estimates, confirming estimates that no changes are required at this time.

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.

There are provisions for confidentiality if sensitive archeological or sacred sites are within the area of project effects. This information is redacted from review documents or reports published during the public review process of agency actions.

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 as described above.

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

See attached spreadsheet. This information is based on the accumulated experience of Agency staff working with the applicants since Agency NEPA regulations were first promulgated in 1984.

The annual number of respondents is estimated to be 4,954 based on the annual number of loans and grants for single family housing, multi-family housing, community facilities, business programs, water and waste programs, and electric and telecommunications facilities.

The applicants' time required to complete the required information varies with the complexity of the various proposals being put forward. The response time is expected to range between 32 and 2200 hours, with the vast majority averaging 76 hours per application.

The dollar amounts used for the wage grad come from mean wages from the Bureau of Labor Statistics, May 2012 National Occupational Employment and Wage Estimates United States (http://www.bls.gov/oes/current/oes_nat.htm), multiplied by a factor of 1.4 to account for overhead and administrative expenses. Mean wages by occupation for the following classes: Secretaries and Administrative Assistants (25.42); Conservation Scientist (42.80); Engineer (61.22).

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 \$1,187,514. This cost was developed by estimating the number of hours that an Agency employee, at a grade level 12, step 5, (2013 OPM base salary + burden rate of 36.3%) would spend in completing the required

environmental reviews. The costs will vary between RD and RUS: RUS reviews are assumed to be at a higher grade, GS-13, step 5, and involve more hours for reviews. Clerical support was also factored in. These figures are shown below.

Categorical Exclusions are the most common type of environmental review; EAs are the next most common type and will be reviewed for adequacy based upon the applicant information provided in 7 CFR 1970.41(c). EISs are the least common NEPA document and will be adopted whenever possible, where other federal agencies have undertaken analyses of applicants' related actions.

The use of the three Exhibits described in Question 2 saves RD staff hours by directing applicants to provide the most pertinent and focused information and data during the planning and design phase of their proposals.

Type of Environmental Review	Number of Estimated Reviews	Hours for Agency to Complete Review	Hourly Rate (burdened)	Total Cost to Agency
Clerical support	100	1	28.11	\$2811
RHS/RBS Environmental Assessments	142	8	\$55.42*	\$62,957
RUS EAs	450	25	65,88**	\$744,444
RUS EIS	2			
Categorical Exclusions	4,250	1.5	\$55.42*	\$363,302
Travel				\$14,000
Total				\$1,187,514
*GS-12/5				
**GS-13/5				

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

New package.

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

All comments will become a matter of public record.

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.

These forms are used in other Rural Development information collections; therefore, it is not practical to include an OMB expiration date because of the different expiration dates for each collection. RD is seeking approval to not display the OMB expiration date on these forms.

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, local RD offices are located at USDA Service Centers. Applicants interested in financial assistance from RD will be able to obtain information and environmental guidance documents (Exhibits) on Agency programs from these offices (and State and National Offices and from online resources too). The information required by the Exhibits are specific to applicant proposals and their proposed locations. The applicant is the logical source for this information. Other programs in the Center would not collect the information, unless one of these agencies was also participating in the financing of an applicant's proposal; this is unlikely due to the different programs and eligible applicants of the different SCI agencies. Other agencies in the center, such as NRCS, may be an important source for the required information used by RD officials in evaluating the environmental implications of agency actions.