



United States Department of Agriculture

August 3, 2020

TO: Julie Hewitt
Senior Desk Officer
Office of Management and Budget

THROUGH: Ruth Brown
USDA Information Collection Officer

FROM: Michele Brooks
Director, Regulations Management Division
Innovation Center, Rural Development, USDA

SUBJECT: Request for Emergency Approval of a New Information Collection Request
Special Authority to Enable Funding of Broadband and Smart Utility Facilities
Across Select Rural Development Programs (Smart Utility)

The Rural Utilities Service, Rural Business-Cooperative Service, and Rural Housing Service, agencies that comprise the Rural Development (RD) Mission Area (Agencies) within the United States Department of Agriculture, is requesting emergency review and approval of a new information collection for the *Special Authority to Enable Funding of Broadband and Smart Utility Facilities Across Select Rural Development Programs (Smart Utility)* final rule. The Agencies are expecting to publish the final rule in the **Federal Register** by September 15, 2020.

The U.S. Department of Agriculture Secretary Perdue has indicated that implementation of the Sec. 6210, "Smart Utility Authority for Broadband" of the 2018 Farm Bill, is a priority for publication prior to the close of the FY 2020. If publication of this authority is delayed, rural businesses and families, already severely impacted due to the economic impact of the COVID-19 pandemic, may continue to suffer from a decline in educational opportunities, inadequate health care, depressed economies, and high unemployment. Projects funded under the 2018 Farm Bill special Smart Utility authority, can play a vital role in the economic recovery created by time, distance, location, and lack of resources, which has been severely compounded by the COVID-19 pandemic. In lieu of the compressed deadline to the end of fiscal year 2020, Rural Development, USDA is requesting that OMB approve this information collection no later than September 8, 20

On December 20, 2018, Congress passed The Agricultural Improvement Act of 2018 (2018 Farm Bill) (Pub. L. 115-334). In Section 6210, “Smart Utility Authority for Broadband” of the 2018 Farm Bill, Congress provided for special use of funding from other RD programs for broadband deployment. The provision granted the Secretary of Agriculture the discretion to allow recipients of grants, loans, or loan guarantees under RD programs to use not more than 10 percent of such funding to finance broadband infrastructure in areas not served by the minimum acceptable level of broadband service which will not result in competitive harm to a current RD loan, grant, or loan guarantee. The provision clarified that the new authority was supplemental to existing authorities to finance rural infrastructure and not a limitation on those authorities stating that nothing in the smart utility section shall be construed to limit the ability of any borrower to finance or deploy services authorized by the 2018 Farm Bill.

Approval of an emergency approval for this new collection is important because the “Smart Utility” authority will not be able to be implemented, as the use of normal clearance procedures is likely to prevent the collection of information from applicants which, in turn, will have negative consequences on the intended recipients and government. The 60-day notice for comments is included in the final rule and comments on the “Smart Utility” information collection request is requested in order to submit the regular request to obtain a 3-year approval from OMB after receiving the 6-month OMB emergency approval. Due to the need to consider comments received and then issue another notice for the *Federal Register* for an additional thirty days of comment, the Agencies would not be able to complete the information collection process. Failure to collect proper information from borrowers could hinder the government’s recovery of such loans, result in improper determinations of assistance, increase legal costs to the borrower as well as encumber customer service and, ultimately, slow the deployment of broadband to unserved and under-served rural areas. Please note that after the 60-day comment period closes, RD will submit the collection package for a 3-year approval addressing any comments received.

Should you have any questions, please do not hesitate to contact Michele Brooks, Director, Regulations Management Division, Innovation Center, Rural Development by telephone at (202) 690-1078 or by email at Michele.Brooks@usda.gov. or MaryPat Daskal, Management Analyst, Regulations Management Division, Innovation Center, Rural Development by telephone at (202) 720-7853.

Thank you in advance for your quick review and response to us.

Attachments