

March 2010

**SUPPORTING STATEMENT - Proposed Rule**  
**Biorefinery Assistance Program for Guaranteed Loans**  
**0570-NEW**

**NOTE:** This supporting statement combines the burden requirements associated with proposed subpart C to 7 CFR Part 4279 and proposed subpart D to 7 CFR Part 4287. These two proposed subparts constitute the proposed guaranteed loan rule for the biorefinery assistance guaranteed loan program.

A. Justification

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

As authorized under Section 9003 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), the Biorefinery Assistance Program will promote the development and construction of commercial-scale biorefineries and the retrofitting of existing facilities using eligible technology. Consistent with Congressional intent, the program will promote the development of the first commercial scale biorefineries that do not rely on corn kernel starch as the feedstock or standard biodiesel technology for the development of advanced biofuels, giving preference to projects where first-of-a-kind technology will be deployed at viable commercial-scale biorefineries.

Title IX of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) authorizes the Secretary of Agriculture to make loan guarantees for the "development, construction, and retrofitting of commercial-scale biorefineries using eligible technology." The Biorefinery Assistance Program will assist in the development and construction of commercial-scale biorefineries and the retrofitting of existing facilities using eligible technology that does not rely on corn kernel starch as the feedstock or standard biodiesel technology for the development of advanced biofuels, giving preference to projects where first-of-a-kind technology will be deployed at viable commercial-scale biorefineries.

2. Explain how, by whom, and for what purpose the information

is to be used.

The Agency will use form RD 4279-1 and written evidence to collect needed information. The information collected will be used to determine lender and borrower eligibility for loan guarantees, and to ensure the lender protects the government's financial interests. The specific information requirements related to loan applications are discussed in more detail on pages 2 through 6 of the "Instructions for Application for Loan Guarantee in the Application Guide - Section 9003 Biorefinery Assistance Loan Guarantees" document and in Attachment B to this Application Guide, entitled "Application Guidance" at pages 2 through 12.

As part of the application process, lenders have a continuing responsibility to provide the Agency with construction progress reports, on a quarterly basis, demonstrating that engineering and financial criteria used in the review and approval of the application continue to be met during the construction phase of the project. This is necessary to ensure that all terms of the loan guarantee agreement are being complied with.

The information sought by this information collection will be stored in Agency files or computers. The Agency requires original borrower signatures on loan application forms and lender signatures on the loan documents. Submission of substantial information is essential to protect the Government's interest.

The Agency, through its Business Programs Divisions in Washington, D.C., will be the primary user of the information collected. Under the Freedom of Information Act, the general public can request most of the data provided by the borrower and lender to the Agency, except data that are confidential.

If the information is not collected, the Agency would neither be able to make prudent credit decisions nor be able to effectively monitor the lenders' servicing activities and, thus, minimize losses under the Program.

The following paragraphs are presented first for those reporting requirements associated with loan origination and processing and then for those reporting requirements associated with loan servicing. The proposed rule incorporates many of the provisions associated with the Business and Industry Guaranteed Loan program found in 7 CFR Part 4279 subparts A and B and in 7 CFR Part 4287 subpart B. Where appropriate, the cross-references in the

following are to the B&I provisions.

## **A. LOAN ORIGINATION AND PROCESSING**

### **REPORTING REQUIREMENTS - NO FORMS**

Appeals (§ 4279.16). The applicant or borrower and lender and/or holder may appeal any adverse Agency decision. Appeals are handled in accordance with Departmental appeal regulations.

Sale or assignment of guarantee (§ 4279.75). The lender may sell the loan in the secondary market. This is a typical business practice. The only burden imposed by the Agency is requiring the lender to advise the Agency that it wants to sell the loan and requesting the Agency to execute the appropriate documents. The balance of the burden is imposed by requirements of the secondary market, and is not reported here.

Repurchase for holder (§ 4279.78). When a loan defaults, the holder makes demand for repurchase. A lender has the option to repurchase the unpaid guaranteed portion of the loan from a holder. If the lender does not repurchase the loan, the Agency will. The holder's demand will include documentation and the amount due. If the lender does not repurchase the loan, the lender will provide the Agency with information necessary for the Agency to determine the amount due.

Replacement of document (§ 4279.84). When a Loan Note Guarantee is lost, stolen, destroyed, defaced, or mutilated, the Agency will replace it when the lender provides the Agency with documentation and an indemnity bond.

Interest rate change (§ 4279.125(b)). A change in the interest rate between the date of issuance of the Conditional Commitment and before issuance of the Loan Note Guarantee must be requested by the lender and approved by the Agency in writing. The potential effect on project feasibility must be reviewed by the Agency.

Insurance (§ 4279.143(a) through (e)). Hazard insurance is required on every loan to protect the collateral from fire or other insurable losses. The Agency requires the lender to be named as beneficiary. The lender would typically require hazard insurance on non-guaranteed loans, but not always.

Life insurance may be required on key management officials of the business to better ensure the success of the business if key management is lost. This is done by insuring the lives of key management, thus providing capital to hire new key management. This is a common practice of lenders, but the Agency may require life insurance when the lender would not.

National flood insurance is required on projects when available. Public liability, business interruption, malpractice, and other insurance appropriate to the borrower's particular business and circumstances may be required. Lenders typically require flood and other insurance on non-guaranteed loans, but there may be situations where it is not recommended by the lender but required by the Agency.

Appraisal reports (§ 4279.144). The applicant pays for certified appraisers to complete appraisals in accordance with industry standards. Lenders typically require appraisals completed in accordance with industry standard on non-guaranteed loans, and they typically require the applicant to pay for them. There may be situations where the Agency requires an appraisal when the lender would not. Appraisals are used to determine the value of borrower assets being offered as collateral to ensure the loan is adequately secured. Lenders are also required to complete a Phase I Environmental Site Assessment (ESA) in accordance with ASTM International standards, which should be provided to the appraiser for completion of the self-contained appraisal. To conduct these appraisals, lenders are required to use specialized appraisers, unless a specialized appraiser does not exist, in which case the Agency may waive this requirement.

Construction planning and performing development (§ 4279.156). The lender must ensure the project design utilizes accepted architectural and engineering practices, conforms to applicable Federal, State, and local codes, and will be completed with available funds. The lender must also monitor construction, including the use of an on-site inspector, to ensure the project is completed in accordance with the plans and specifications and to keep the Agency informed.

Request for environmental information (§ 4279.161(b)(3)). The information collected from the applicant is used by the Agency in preparing the environmental assessment.

Transfer of lenders (§ 4279.174). When the applicant or lender desires to change lenders prior to issuance of the guarantee, the Agency needs information to determine if the applicant is still eligible and the new proposed lender is eligible and capable of making and servicing the proposed loan.

Changes in borrower (§ 4279.180). When there is a change in the applicant's ownership or organization prior to the issuance of the guarantee, information is needed to determine if the applicant is still eligible for program assistance.

Conditions precedent to issuance of Loan Note Guarantee (§ 4279.181). This is the final check prior to issuance of the guarantee. It is a comprehensive certification from the lender that the borrower meets all requirements of the Conditional Commitment and other program requirements.

Issuance of Loan Note Guarantee (§ 4279.186). The lender advises the Agency when it is ready for closing and provides the Agency with the comprehensive certification required by the paragraph just above.

Refusal to execute Loan Note Guarantee (§ 4279.187). In the very unusual case where the Agency determines it cannot issue the guarantee, it will provide the lender with the reasons. The lender may provide documentation to satisfy the Agency objections.

Construction reports (§ 4279.256(e)). During construction, the lender is required to submit quarterly construction progress reports to the Agency. These reports will contain, at a minimum, construction milestone attainment and personnel hiring, training, and retention.

Application Requirements (§ 4279.261). Applicants must submit with the application form a project summary that contains the following elements:

1. Borrower eligibility. A description of how the borrower meets the eligibility criteria for borrower.
2. Project eligibility. A description of how the project meets the eligibility criteria for projects.

3. Matching funds. Identification of sources, amounts, and status of matching funds.
4. Lender's analysis - The lender completes a comprehensive credit analysis that is the lender's justification for making the loan. The Agency relies on this analysis as a basis for approving the request. In most cases, the lender would prepare a loan analysis for its internal loan committee but possibly not as comprehensive as required by the Agency.
5. Personal credit report. Used to evaluate the credit history of the owners as an aid in the credit evaluation completed by the Agency and lender.
6. Commercial credit report. The lender provides a commercial credit report on the borrower and any parent, affiliate, or subsidiary firms. These reports provide aids in making a determination concerning the credit worthiness of the applicant.
7. Financial statements and pro forma balance sheet and projections - The borrower must provide these to enable the lender and Agency to determine the financial health of the business and the likelihood it will continue to operate successfully.
8. Environmental information (Form RD 1940-20). An environmental analysis completed in accordance with 7 CFR part 1940, subpart G.
9. Appraisals. If the appraisal has not been completed at the time the application is filed, the applicant must submit an estimated appraisal. In all cases, a completed appraisal must be submitted prior to the loan being closed. Appraisals are used to determine the value of borrower assets being offered as collateral to ensure the loan is adequately secured.
10. Feasibility studies. The study must address the economic, market, technical, financial, and management feasibility of the project. These studies are used by the lender and Agency to help determine the creditworthiness of the proposal.
11. Business plan - A business plan is prepared, typically by the applicant, which describes (1) the borrower's experience and succession planning regarding the borrower's ownership and management; (2) the names and a description of the relationship regarding the borrower's parent, affiliates, and subsidiaries; (3) the business'

strategy; (4) possible vendors and models of major system components; (5) the availability of the resources (e.g., labor, raw materials, supplies) necessary to provide those product and services; (6) site location and its relation to product distribution (e.g., rail lines or highways) and any land use or other permits necessary to operate the facility; (7) the market for the product and its competition, including any and all competitive threats and advantages; (8) projected balance sheets, income and expense statements, and cash flow statement for a period of not less than 3 years of stabilized operation; and (9) a description of the proposed use of funds.

12. Technical assessment - The technical assessment must demonstrate that the design, procurement, installation, startup, operation and maintenance of the project will permit it to operate or perform as specified over its useful life in a reliable and a cost effective manner, and must identify what the useful life of the project is. The technical assessment must also identify all necessary project agreements, demonstrate that those agreements will be in place on or before the time of loan closing, and demonstrate that necessary project equipment and services will be available over the useful life of the project. The technical assessment must be based upon verifiable data and contain sufficient information and analysis so that a determination may be made on the technical feasibility of achieving the levels of income or production that are projected in the financial statements. Areas addressed must include:

- Qualifications of the project team;
- Agreements and permits;
- Resource assessment;
- Design and engineering;
- Project development schedule;
- Equipment procurement;
- Equipment installation;
- Operation and maintenance; and
- Decommissioning.

13. Economic analysis - This analysis must describe the costs and revenues of the proposed project to demonstrate its

financial performance.

14. Proposed Loan Agreement - An agreement between the lender and the borrower establishing conditions for the loan such as collateral, repayment schedule, loan purpose, and other conditions. They are a general lender practice for all commercial loans. The Agency reviews the proposed document to aid in its loan analysis.
15. Lender certification - A certification by the lender that indicates the lender has completed a comprehensive written analysis of the proposal, the applicant is eligible, the loan is for authorized purposes, and there is reasonable assurance of repayment ability based on the borrower's history, projections and equity, and the collateral to be obtained. The lender must also certify that the project demonstrates technical merit.
16. Intergovernmental consultation. The applicant is required to comply with RD Instruction 1940-J and 7 CFR part 3015, subpart V. This is to ensure the project is in compliance with State and local development strategies.
17. Bioenergy experience. The borrower must provide information on their prior experience in bioenergy projects and the receipt of Federal financial assistance, including amount of funding, date received, purpose, and outcome, for such projects.

Certification for contracts, grants and loans required by 7 CFR 3018.110 if loan exceeds \$150,000 (§ 4279.281(a)). 7 CFR 3018.110 imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

Requirements after construction, periodic reports (§ 4279.290(a)). Borrowers are required to prepare annual reports for completed projects and provide them to lender, who submits them to the Agency for the life of the loan. Information to be contained in these reports include: (1) the actual amount of advanced biofuels produced to assess whether project goals are being met; (2) if applicable, documentation that identified health and/or sanitation problem has been solved; (3) a summary of the cost of operating and maintaining the facility; (4) description of any maintenance or operational problems associated with the facility; (5) certification that the project is and has been in compliance with all applicable State and Federal



environmental laws and regulations; (6) the number of jobs created; (7) a description on the status of the project's feedstock including, but not limited to, the feedstock being used, outstanding feedstock contracts, feedstock changes and interruptions, and quality of the feedstock; and (8) results from the annual lender inspection conducted under § 4279.290(b).

Annual lender inspections (§ 4279.290(b)). For the life of the guaranteed loan, lenders are required to conduct annual inspections of the project on its status as it affects the Agency's financial interests in the project.

### **REPORTING REQUIREMENTS - FORMS**

#### **Form RD 4279-1, "Application for Loan Guarantee (Business and Industry and Section 9006 Program)" (§ 4279.261)**

The information collected on the form is used by the Agency to determine borrower eligibility for program assistance and to provide financial and other data about the borrower and lender. The form contains three parts. The borrower completes part A, the lender completes Part B, and Part C is used by the Agency to evaluate parts A and B and the credit in general. (See Instructions for Application for Loan Guarantee - Section 9003 Biorefinery Assistance Loan Guarantees.)

#### **Standard Form LLL, "Disclosure of Lobbying Activities"**

All applicants are required to complete this form, regardless of their involvement in lobbying activities.

#### **Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions" or other written documentation**

This form certifies that the applicant is not presently debarred, suspended, or voluntarily excluded from covered transactions by any Federal department or agency.

#### **Form RD 400-1, "Equal Opportunity Agreement"**

All applicants and recipients are required to complete this form to comply with Equal Opportunity requirements.

#### **Form RD 400-4, "Assurance Agreement"**

All applicants and recipients are required to complete this form to comply with Civil Rights Acts and laws.

#### **Form RD 4279-3, "Conditional Commitment" (paragraph (b))**

**(§ 4279.173)**

The form is used by the Agency to provide notice to the lender and lender and borrower acceptance that the guarantee request is approved subject to the conditions established by the Agency and listed on the form.

**Form RD 4279-4, "Lender's Agreement" (§ 4279.186(a))**

This form is the signed agreement between the Agency and the lender setting forth the lender's loan responsibilities. Each lender will execute the form once.

**Form RD 1980-19, "Guaranteed Loan Closing Report" (§ 4279.186(a)(3)).**

The information is used by the Agency to establish the account in its accounting system. The Agency prepares the form, and the lender verifies it for accuracy.

**Form RD 4279-6, "Assignment Guarantee Agreement" (§ 4279.75(a))**

This form is the signed agreement between the Agency, lender, and holder, setting forth the terms and conditions of an assignment of the guaranteed portion of a loan to a holder.

**B. LOAN SERVICING**

**REPORTING REQUIREMENTS - NO FORMS**

Loan classification (§ 4287.107(b)). Within 90 days of receipt of the Loan Note Guarantee, the lender must notify the Agency of the loan's classification or rating under its regulatory standards. Should the classification be changed at a future time, the lender must notify the Agency immediately.

Agency and lender conference (§ 4287.107(c)). The lender will meet with the Agency at the Agency's request to ascertain how the guaranteed loan is being serviced and ensure that conditions and covenants of the Loan Agreement and Conditional Commitment are being enforced. The Agency plans to meet with each lender at least annually.

Quarterly financial reports (§ 4287.107(d)). The lender must obtain the financial statements required by the Loan Agreement, and these statements must be forwarded to the Agency. It is common practice within the banking industry for the lender to require a borrower; regardless of whether there is a Loan Note Guarantee, to provide periodic financial statements. Normally,

lenders require a newer borrower to provide financial statements quarterly, as well as an annual financial statement. Established borrowers submit only annual statements. The burden computation has been adjusted to reflect instances over and above the usual customary practice by the lender in which additional financial statements will be required by the Agency. Basically, it is the time spent completing the abbreviated financial analysis to Agency requirements, and submitting it to the Agency.

Annual Financial Reports (§ 4287.107(d)). The lender is expected to fully analyze the annual financial statements for each borrower and provide the Agency with a written analysis and conclusions, including spreadsheets and ratio trend analyses that compare year-to-year historical financial information and also compare the borrower to industry standards for similar businesses. The lender's written analysis should include the borrower's strengths, weaknesses, extraordinary transactions, term loan agreement violations, and other indications of the financial condition of the borrower. Most lenders would complete the financial analysis, even if it were not guaranteed.

The lender must submit the annual financial statements to the Agency along with its spreadsheets and written analysis within 120 days of the end of the borrower fiscal year. This requirement is necessary for the lender and the Agency to service the loan and monitor the borrower's financial condition.

Borrower visits (§ 4287.107(f)). The Agency will meet with each borrower during the first year after the Loan Note Guarantee is issued, and every three years thereafter, and more often if the account is delinquent or a problem. The lender is encouraged to participate in the visit. During the visit, a review of the collateral and the borrower's operation is made.

Interest rate adjustments (§ 4287.112). The lender is responsible for the legal documentation of interest rate changes by an endorsement or any other legally effective amendment to the promissory note. The Government's financial interest must not be adversely affected by any reduction in the interest rate.

Subordination of lien position (§ 4287.123). A subordination of the lender's lien position must be requested in writing by the lender and concurred by the Agency in writing in advance of the subordination. The subordination must enhance the borrower's business, and the Agency's interest in and lien position on the collateral, after subordination, must be adequate to secure the

loan.

Credit reports (§ 4287.134(a)). An individual credit report must be provided for transferee proprietors, partners, officers, directors, and stockholders with 20 percent or more interest in the business. This information gives the loan officer a history of past credit payments on the transferee and aids the loan officer in making a determination as to the credit worthiness of the transferee.

Appraisal reports (§ 4287.134(c)). In a transfer and assumption, the transferor may be released from liability on the loan only with prior Agency approval and only when the value of the collateral being transferred is at least equal to the amount of the loan being assumed. A current appraisal is needed to make such a determination.

Substitution of lenders (§ 4287.135). After the issuance of the Loan Note Guarantee, the lender shall neither sell nor transfer the entire loan to a new lender without the prior written approval of the Agency. The substitution of lender is requested in writing by the borrower and the proposed substitute lender if the original lender is still in existence. The new lender must agree in writing to acquire title to the non-guaranteed portion of the loan held by the original lender and assume all original loan requirements.

Protective advances (§ 4287.156). Protective advances are advances made by the lender to preserve and protect the collateral. They must constitute as indebtedness of the borrower to the lender and be secured by the security instruments. The lender needs the Agency's written authorization when cumulative protective advances will singularly or cumulatively amount to more than \$100,000 or 10% of the guaranteed loan, whichever is less.

Liquidation plan (§ 4287.157(c)). If the lender concludes that liquidation is necessary, it must request the Agency's concurrence. Within 30 days after a decision to liquidate, the lender will submit to the Agency its proposed written detailed method of liquidation. Upon approval by the Agency of the liquidation plan, the lender will conduct the liquidation (as it would for any non-guaranteed loan). If significant changes to the plan become necessary, the lender must request Agency concurrence to alter the plan.

Acceleration (§ 4287.157(f)). If the lender concludes that liquidation is necessary, it must request the Agency's concurrence. Within 30 days after a decision to liquidate, the lender will submit to the Agency its proposed written detailed method of liquidation. Upon approval by the Agency of the liquidation plan, the lender will conduct the liquidation (as it would for any non-guaranteed loan). If significant changes to the plan become necessary, the lender must request Agency concurrence to alter the plan.

Accounting and reports (§ 4287.157(h)). When the lender conducts liquidation, it will account for all funds during the period of liquidation, and will provide the Agency with reports at least quarterly on the progress of liquidation including disposition of collateral, resulting costs, and additional procedures necessary for successful completion of the liquidation.

Termination of guarantee (§ 4287.180). A guarantee will be terminated automatically upon the written notice from the lender to the Agency that the guarantee will terminate in 30 days after the date of notice, provided that the lender holds the entire guaranteed portion of the loan.

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones.

Release of collateral (§ 4287.307(c)). All releases of collateral greater than \$250,000 must be supported by an appraisal. The lender must submit a written request to the Agency and obtain Agency concurrence prior to releases of collateral that exceed 20 percent of the original loan or when the proceeds will not be used to reduce the guaranteed loan or to buy replacement collateral.

Annual reports for loss claims (§ 4287.307(g)). Each lender who receives a final loss payment to submit an annual report on its collection activities for each unsatisfied account for three years following payment of the final loss claim.

## **REPORTING REQUIREMENTS - FORMS**

**RD Form 1980-41, "Guaranteed Loan Status Report" (§ 4287.307(a))**

The Agency requires the lender to complete this form four times a year (quarterly). The lender has the primary records on a guaranteed loan. The Agency uses this information collected from the lenders to determine the status of the guaranteed loan and forecast losses. The information is also used in the completing the Agency financial statements.

**Form RD 1980-44, "Guaranteed Loan Borrower Default Status"**  
**(§ 4287.307(b))**

The Agency requires the lender to complete this form on all delinquent loans every month. The Agency uses this information to determine the lender's compliance with the Lender's Agreement in properly servicing delinquent accounts.

**Form RD 449-30, "Loan Note Guarantee Report of Loss"**  
**(§ 4287.158(c))**

The Agency requires the lender to use this form to process estimated and final reports of loss on guaranteed loans.

**Form RD 1980-43, "Lender's Guaranteed Loan Payment to USDA"**  
**(§ 4287.157(i))**

The Agency requires the lender to use this form to send guaranteed loan payments to the Agency Finance Office on loans repurchased by the Agency from the secondary market.

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

Rural Development has considered the use of improved information technology to reduce the burden on the applicants. The information involved is unique to each particular case. The written narrative portion of the application would assist the applicant and Rural Development because most of this could be completed on a word processor. Rural Development is in the process of preparing worksheets to help reduce the effort associated with preparing applications. However, Rural Development does not anticipate electronic submission of the application package by the applicants because, at this point in time, the Agency is not satisfied that the security protocols properly protect an applicant's proprietary information.

When the rule for this program is promulgated, Rural Development plans to leverage existing agency technological resources for the processing and servicing of guaranteed loans, the Guaranteed Loan System (GLS). GLS currently provides the agency the ability to capture and manage information and data associated with its guaranteed loan programs but, GLS remains a proprietary system wherein data is input, processed, and managed, internally.

Rural Development is modifying its GLS system to enable the collection of certain data elements associated with processing and servicing agency guaranteed loans that are typically provided by lenders who participate in the program, electronically. Rural Development's plan envisions a system capable of electronically receiving from participating lenders, the data elements contained in the forms associated with the notice of funding availability.

4. Describe efforts to identify duplication.

Rural Development is relying on existing forms used in the current Business and Industry guaranteed loan program and in the Rural Energy for America Program (REAP) guaranteed loan program. If similar information is found to be available from another Federal agency, every effort is made to utilize that information as is or in an appropriately modified form for this program.

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

Most eligible projects will be larger than those that small businesses usually undertake. To the extent that a small business were to apply for a loan guarantee under the rule, the information collection required places little or nominal burden on small entities beyond that performed in normal business practice. Furthermore, Rural Development is using industry-standardized data elements and documents, supplementing them with Government-wide forms that are familiar to many applicants.

6. Describe the consequences 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.

Application information is only collected once, while various status reports and notifications are submitted at different times throughout the year. If this information was collected less

frequently than required, the Agency would be unable to address delinquent loans, evaluate whether the borrower has sufficient cash flow to meet its obligations, and determine if the borrower is in compliance with all conditions contained in the Conditional Commitment. Thus the Agency would increase its risk of loss and its oversight capabilities to help manage its outstanding loan portfolio.

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

- a. Requiring respondents to report information to the Agency more often than quarterly. Loan default status reports are submitted monthly. These reports give the Agency the ability to quickly address delinquent loans thereby decreasing the risk of loans defaulting and Agency loss.

Lender loan status reports, financial reports on borrowers, and project performance reports are submitted quarterly. Audited financial reports on borrowers are submitted annually.

- b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it. Certain unanticipated ad-hoc events (i.e., loan agreement violations, reductions in interest rates, changes in loan classification) may occur. If this happens, a lender is required to notify the Agency within 15 days of its occurrence.
- c. Requiring respondents to submit more than an original and two copies of any document. There are no information requirements that require more than an original and two copies.
- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. Not using statistical sampling. There are no such requirements.
- f. Requiring use of statistical data classification that has not be reviewed and approved by Office of Management and Budget (OMB). No such requirements exist.



g. Requiring a pledge of confidentiality that is not supported by authority 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. There are no such requirements.

h. Requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permissible by law. There are no such requirements.

8. Comments on Agency's notice in the Federal Register and efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of the instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

As required by the Paperwork Reduction Act of 1995, a 60-day Notice was embedded in the Notice of Funds Availability, which was published in the Federal Register December 24, 2008 [73 FR 79041]. No comments were received.

The Agency relied on two sources of contact with outside persons.

Through its normal course of business in implementing the Business and Industry and Rural Energy for America guaranteed loan programs, the Agency talked with lenders using the programs on many issues, including the paperwork burden associated with guaranteed loan making. These lenders include national, regional, and community lenders; nontraditional lenders; national lending and banking associations; economic and/or community development organizations; and other Federal agencies associated with credit making activities. The Agency obtained this input through meetings with Agency personnel from State Offices and the National Office for consideration in developing 7 CFR Part 5001, which has been subsequently withdrawn. In addition, the Agency now has five years experience in implementing the Rural Energy for America Program. Based on this experience, the Agency identified additional ways (e.g., simplified applications, reduced the time associated with reviewing energy efficiency applications by reviewing such applications at the National office level only, and providing for two rounds of funding to

provide agricultural producers adequate time to apply) to streamline the Rural Energy for America Program and make it less burdensome.

The Agency reviewed prior and related rulemakings. For the Business and Industry program, the Agency had contacted experienced lenders to obtain their assessment of the burden associated with guaranteed loans under the B&I program. The Agency reviewed these comments to determine if there were any additional ideas for reducing or streamlining the paperwork burden associated with now withdrawn 7 CFR Part 5001.

For the Rural Energy for America Program, the Agency reviewed the comments received addressing the collection of information and associated burden on the Renewable Energy Systems and Energy Efficiency Improvements program, which was proposed on October 5, 2004 (69 FR 59650). These comments suggested streamlining the requirements, especially for smaller projects.

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

No payments or gifts will be provided to respondents.

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

Confidentiality is not assured. Requests for release of records and information are processed in accordance with the Privacy Act of 1974.

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.

There is no collection of any information that would be considered sensitive in nature or commonly considered private.

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

Based on the anticipated funding level for this program, the estimated 3-year annual burden for this collection is approximately 23 respondents; 630 responses; and 2,920 burden hours. This is equivalent to approximately 4.6 hours per

response. With one exception, the cost per hour used was \$60, which was calculated by averaging data to the Agency from a survey of lenders and is representative of the current burden rate of \$60 per hour. For the preparation of the feasibility study, a rate of \$70 per hour was used, which reflects an average for a \$60 per hour rate and an \$80 per hour rate. Based on these data, the estimated 3-year average annual cost of burden is \$185,698.

The following summarizes the estimated 3-year average annual burden associated with the Program.

Burden Item	Estimated 3-Year Average Annual Burden
Number of respondents:	23
Annual responses:	630
Number of hours per response:	4.6
Total hours:	2,920
Cost per hour:	\$63.60
Total annual cost:	\$185,698

The attached spreadsheet provides the specific estimates.

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

There are no capital/start-up costs or operation/maintenance costs associated with this collection.

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

The estimated wage of Federal employees compiling the information is \$40.41 per hour. Administrative costs include the cost of promulgating the regulations, publication in the Federal Register, developing and printing the proposed forms, etc. The 3-year average annual cost to the Government is estimated to be \$113,806. The breakdown of cost to the Government by activity is as follows:

#### Allocation of Federal Government Costs

Activity	3-Year Annual Average
<b>Applications for loan guarantee</b>	
Review and acknowledge applications	\$21,687
<b>Loan Origination/Process</b>	
Approve loans and obligate funds	\$2,478
Review documents and issue guarantee	\$1,859
Preparation of Conditional Commitment	\$620
Preparation of Lender's Agreement	\$310
Preparation of Assignment Guarantee Agreement	\$310
Litigation and appeals	\$647
Repurchases	\$485
Replacement of documents	\$242
Quarterly construction reports	\$2,478
<b>Loan Servicing</b>	
Review quarterly financial reports	\$2,478
Review annual audited financial reports	\$620
Borrower visits	\$2,478
Agency concurrence for interest rate increases	\$647
Subordinations	\$323
Protective advances	\$162
Liquidation plan	\$242
Release of collateral	\$162
Review of annual report from lenders receiving final loss payments	\$162
Review post construction reports	\$310
<b>Oversight and Monitoring</b>	
Review loan status reports	\$7,274
Review default reports	\$808
Lender conferences	\$1,239
<b>Administrative Costs</b>	
<b>Total</b>	\$113,806

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

This is a new information collection.

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

The results of this collection of information will not be published.

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.

Approval not to display the expiration date is being sought. The Agency sees no benefit to displaying the expiration date.

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

There are no exceptions to the certification. The Agency is able to certify compliance with all provisions under item 19.

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

The SCI calls for changes to improve services to the United States Department of Agriculture (USDA) customers. One aspect is providing one stop service for greater customer convenience in accessing USDA programs, including access to required forms.