August 2014

SUPPORTING STATEMENT
Guaranteed Loanmaking and Servicing Regulations
(0570-New)
7 CFR Part 4279-A, 7 CFR Part 4279-B, and 7 CFR Part 4287-B
(Proposed Rule)

This proposed rule combines the burden from three currently active burden packages; OMB Nos. 0570-0016, 0570-0017, and 0570-0018. Once the final rule has been published, becomes effective, and the final information collection package is approved, these three packages will be discontinued.

1. Explain the circumstances that make the collection of information necessary. The Business and Industry (B&I) program was legislated in 1972 under Section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans made by lending institutions, thereby providing lasting community benefits. The B&I program is administered by the Agency through Rural Development State and sub-State Offices serving each State.

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.

These subparts contain requirements applicable to the B&I Guaranteed Loan Program administered by the Agency. This includes lender and borrower eligibility for participation in Agency guaranteed programs, lender performance, and secondary market activities. The bulk of 7 CFR 4279-B and 4287-B for the B&I Guaranteed Loan Program concern processing and servicing the loans themselves. The information is used by Agency loan officers and approval officials to determine lender program eligibility and for program monitoring.

The estimates do not include burden hours for customary and usual business practices of entities other than the Agency. Therefore, this package only considers the information the Agency requires in excess of what a lender would typically require of a business, as well as the information the Agency regulation requires from the lender in excess of what it would typically do for a non-guaranteed loan. The burden estimates in this package are based on the assumption that the B&I Guaranteed Loan Program will receive $1 billion in program funding in each of the next 3 years with which it will guarantee an average of 550 loans per year. **Specifically, the burden to be cleared with this document is as follows:**

REPORTING REQUIREMENTS - NO FORMS

7 CFR Part 4279-A (0570-0018)

Appeals. The applicant or borrower and lender and/or holder may appeal any adverse Agency decision. Appeals are handled in accordance with Departmental appeal regulations. The burden is reported here.

Eligible Lenders. A lending entity that does not meet the description of a regulated lender (which is any Federal or State chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, Bank for Cooperatives, Savings and Loan Association, Savings Bank, or mortgage company that is part of a bank-holding company) may request consideration to become an eligible lender for the B&I program. The lender's written request must include information concerning lender experience, expertise of the lender and its staff, an audited financial statement to determine capital resources, license or other evidence of authority to make loans, and a copy of a credit examination.

Sale or assignment of guaranteed loans. 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 from the holder. 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. When a Loan Note Guarantee or Assignment Guarantee Agreement is lost, stolen, destroyed, or defaced by the lender or holder, the Agency will replace it when the lender provides the Agency with documentation and an indemnity bond.

7 CFR Part 4279-B (0570-0017)

Loan guarantee limits – Loan amount. A lender requesting more than $10 million in guarantee authority must document that it will not make the loan and the project will not be completed if the guarantee is not approved. The Agency is attempting to provide assistance to as many businesses as possible by requiring an exception by the Administrator to guarantee loans between $10 and $25 million. Guaranteed loan approval in excess of $25 million up to $40 million rests with the Secretary of Agriculture, whose authority cannot be re-delegated.

Loan guarantee limits – Percentage of Guarantee. A lender requesting an increased percentage of guarantee must document that it will not make the loan and the project will not be completed due to the lender's legal lending limit if the increased percentage of guarantee is not approved.

Interest rate change. A change in the interest rate between the date of issuance of the Conditional Commitment and before the issuance of the Loan Note Guarantee must be requested by the lender and approved by the Agency in writing. The request typically discusses what the change in the interest rate is and any impact it has on the loan. The potential effect on project feasibility must be reviewed by the Agency.

Credit quality analysis. The lender is primarily responsible for determining the quality of the proposed loan. Lenders typically complete an analysis of all commercial loans for their internal loan committee, but these analyses vary in scope. The Agency requires a complete written analysis, including spreadsheets of the balance sheets and income statements for the 3 previous years (for existing businesses), a pro forma balance sheet projected for loan closing, and 2 years projected yearend balance sheets and income statements, common sized with appropriate ratios and comparisons with industrial standards. The lender's written credit analysis must address the borrower's management, repayment ability including a cash-flow analysis, history of debt repayment, necessity of any debt refinancing, and the credit reports of the borrower, its principals, and any parent, affiliate, or subsidiary. The burden estimate is the average time required for the lender to complete the analysis.

Hazard Insurance. 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 loss payee. The lender would typically require hazard insurance on non-guaranteed loans. The borrower obtains the insurance, and the lender reviews it for sufficiency.

Life Insurance. Life insurance may be required on key management officials of the business to 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. The borrower obtains the insurance, and the lender reviews it for sufficiency.

Flood and other insurance. 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. The borrower obtains the insurance, and the lender reviews it for sufficiency.

Financial statements. The Agency requires the lender to determine the type and frequency of submission of the financial statements by the borrower. Financial statements must be completed by an accountant at least annually in accordance with Generally Accepted Accounting Principles (GAAP), except for guarantors' personal financial statements and farmer/rancher guaranteed loans for cooperative stock purchase who may provide financial information in a manner that is generally accepted by commercial agricultural lenders. This is what a lender would typically require on similar non-guaranteed loans, and, lenders often require quarterly statements for new or problem accounts. However, there may be situations where the lender's reporting requirements would be less. In some instances, the Agency may require annual audited financial statements, which may be more than a lender would require. The burden reported here is just the time needed to determine the type of reporting to require of the borrower.

The specific requirement for borrower financial reporting is established in the loan origination phase, but most of the burden to the public associated with it is covered under the servicing portion of the program regulations, which is 7 CFR 4287-B. The information is used by the Agency to monitor the progress of the business and to help to identify potential problems before they become critical, thus helping to keep business failures and Agency losses to a minimum.

Appraisal reports. 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.

Feasibility Studies. Feasibility studies are generally required by the Agency only for a business with no track record or a business that is introducing new ideas or product lines. When required, the study must address the economic, market, technical, financial, and management feasibility of the business. They are used by the lender and Agency to help determine the creditworthiness of the proposal. Lenders sometimes require feasibility studies for loans without a guarantee, but a less comprehensive analysis might satisfy the lender.

Pre-application requirements. A pre-application is preliminary information used by the Agency to determine preliminary eligibility for program assistance. Pre-applications are optional. If the proposal does not appear eligible or feasible, the Agency may discourage the filing of a complete application, thus saving the business time and money. The lender would typically require much of the same documentation for non-guaranteed loans. The following documents comprise the content of a pre-application:

(a) Letter to the Agency - A letter signed by the lender containing basic information about the applicant and the loan proposal.

(b) Completed Form 4279-2, "Certification of Non-Relocation and Market Capacity Information Report." See description in "forms" section below.

(c) Financial information - It is used by the Agency to determine preliminary creditworthiness of business.

(d) Preliminary business plan for start-up business - Describes the business, its intended markets, and other relevant information. They vary considerably in scope.

<u>Application Requirements</u>. The applicant provides the application requirements to the lender, and the lender passes it on to the Agency. This section lists the information needed by the Agency including completed forms, financial statements, and other documents used by the lender and Agency to determine program eligibility and creditworthiness of the loan proposal. The burden per response is low because the lender would typically require virtually the same documentation for a non-guaranteed loan, and only the burden in excess of lender requirements is included. The following comprises the content of an application:

(a) <u>Personal credit reports</u> - Used to evaluate the credit history of the owners as an aid in the credit evaluation completed by the Agency and lender. This is typically required by lenders for non-guaranteed loans.

(b) <u>Intergovernmental consultation</u> - The applicant is required to notify the designated State clearinghouse of its proposal. This is to ensure the project is in compliance with State and local development strategies.

(c) <u>Current financial statements and pro forma balance sheet and projections</u> - The applicant 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. This is typically requested by lenders for non-guaranteed loans.

(d) <u>Lender's analysis</u> - 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.

(e) <u>Commercial credit report</u> - The lender provides a credit report on the business and related firms. They provide aids in making a determination concerning the credit worthiness of the applicant. This is typically required by lenders for non-guaranteed loans.

(f) <u>Current personal and corporate financial statements of any guarantors</u> - Used to evaluate the financial strength of the owners to determine if they will be able to inject additional resources into the business if needed, thus providing a measure of comfort. This is typically required by lenders for non-guaranteed loans.

(g) <u>Proposed loan agreement</u> - An agreement between the lender and the borrower establishing conditions for the loan such as collateral, repayment schedule, loan purpose, and other conditions. This agreement is a general lender practice for all commercial loans. The Agency reviews the proposed document to aid in its loan analysis. Always required by lenders for non-guaranteed loans, but the Agency may require more covenants than the lender would typically require.

(h) <u>Business plan</u> - When a feasibility study is not required, a business plan is prepared that describes the business and project, management experience, sources of capital, products, services and pricing, marketing plan, proposed use of funds, availability of labor raw materials and supplies, contracts in place, distribution channels, etc. It is similar to a feasibility study and used for similar purposes, but is much less comprehensive and is typically prepared by the borrower. This is typically required by lenders for non-guaranteed loans.

(i) 10-K reports - The Agency requests a copy of this report from publicly-traded companies. It is prepared for the Securities and Exchange Commission and aids in the lender and Agency loan analysis. This is typically required by lenders for non-guaranteed loans.

(j) Certificate of Need - Obtained by the applicants for health care facilities from the appropriate regulatory authority. The certificate is evidence that the borrower will be able to collect from third party payors, which effects project feasibility. This is typically required by lenders for non-guaranteed loans.

Planning and performing development. 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. Although construction monitoring is typically contracted out, the lender is ultimately responsible for monitoring construction to ensure the project is completed in accordance with the plans and specifications and keep the Agency informed. Lenders typically do most of this for non-guaranteed loans. However, some Federal laws do not apply to loans without Federal involvement and the lender would not have to provide reports to the Agency for non-guaranteed loans.

Change in conditions. When changes to the loan conditions set forth in the Conditional Commitment and Loan Agreement are needed subsequent to loan approval but prior to loan closing, the lender submits a request to the Agency outlining the requested change.

Central Contractor Registration. The borrower must register in the Central Contractor Registration and provide its case number and expiration date prior to loan obligation.

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

Changes in borrower. 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. 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.

<u>Issuance of Loan Note Guarantee</u>. The lender advises the Agency when it is ready for closing and provides the Agency with closing documents and the comprehensive certification required by the paragraph just above.

<u>Refusal to execute Loan Note Guarantee</u>. In the 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.

<u>7 CFR Part 4287-B (0570-0016)</u>

<u>Loan Classification</u>: At the time the Loan Note Guarantee is issued**,** 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.

<u>Agency and Lender Conference</u>: The lender will consult 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 will consult with each lender at least annually, and these conferences can be done either face-to-face or via the telephone. Because lenders sometimes have more than one guaranteed borrower, multiple borrowers are discussed at a single visit.

<u>Annual Financial Reports</u>: 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.

<u>Borrower Visits</u>: The Agency will meet with each borrower as often as needed after the Loan Note Guarantee is issued, 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.

<u>Interest Rate Adjustments</u>: 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 Agency must be notified in writing of all interest rate change prior to the enactment of the negotiated interest rate change. The borrower, lender and holder (if any) may collectively initiate a permanent or temporary reduction in the interest rate of the guaranteed loan at any time during the life of the loan upon written agreement among these parties.

Release of Collateral: All releases must be based on a complete analysis of the proposal. The lender must submit written documentation to the Agency to justify releases of collateral that exceed 20 percent of the loan amount, prior to the release being made. This is to ensure that the loan will remain adequately secured. All releases of collateral with a value exceeding $250,000 must be supported by a current appraisal on the collateral released.

Subordination of Lien Position: A subordination of the lender's lien position must be requested in writing by the lender and concurred in 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.

Alterations of Loan Instruments: Alterations to any loan instrument must be approved in writing by the Agency. A request by the lender for approval to loan instrument changes must be supported by and explanation of the reason for the proposed changes, completed by the lender.

Transfer and Assumption: All transfers and assumptions must be approved in writing by the Agency and must be made to eligible applicants. In all cases, the lender must make a complete credit analysis, subject to Agency review and approval. In addition, the lender will provide to the Agency a written certification that the transfer and assumption is valid, enforceable, and complies with all Agency regulations. A request by the lender for approval of new loan terms must be supported by an explanation of the reasons for the proposed change in loan terms.

Credit Reports: 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. Credit reports are also typically requested for debt settlement transactions.

Appraisal Reports: In a transfer and assumption, the transferor, including any guarantor, 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. Any releases of collateral with a value exceeding $250,000 must also be supported by a current appraisal on the collateral released.

Substitution of Lender: 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.

Default by Borrower: If a monetary default exceeds 30 days, the lender will arrange a meeting with the Agency and the borrower to resolve the problem.

Curative Actions: The primary curative actions include: payment deferment, reamortization, rescheduling, reorganization, and moratoriums.

Protective Advances: 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 exceed $200,000 or 10 percent of the aggregate outstanding balance of principal and interest, whichever is less.

Liquidation Plan: 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. While the Agency has the Liquidation Plan under review, the lender may proceed with the liquidation process after the lender has accelerated the loan. 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: The lender will proceed to accelerate the indebtedness as expeditiously as possible when acceleration is necessary, including giving any notices and taking any other legal actions required. A copy of the acceleration notice or other acceleration documents will be sent to the Agency. The guaranteed loan will be considered in liquidation once the loan has been accelerated and a demand for payment has been made upon the borrower.

Accounting and Reports: 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: 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.

REPORTING REQUIREMENTS - FORMS

Form RD 4279-1, "Application for Loan Guarantee" - The information collected on the form is used by the Agency to determine applicant eligibility for program assistance and to provide financial and other data about the applicant and lender. The form contains two parts. The borrower completes part A, and the lender completes Part B. In an effort to make Rural

Development forms more consistent, thereby improving customer service, the form is also used by the Rural Energy for America Program (REAP).

Form RD 4279-1A, "Application for Loan Guarantee" – This form, which is covered under the current package, is being obsoleted. The form was incorporated into Form RD 4279-1.

Form RD 4279-2, "Certification of Non-Relocation and Market Capacity Information Report" - The form is completed by the applicant and used by the Agency to obtain Department of Labor clearance on loan requests in excess of $1 million that will increase direct employment by more than 50 employees. The information is used to determine if competing businesses would be adversely impacted by the Federally guaranteed loan.

Form RD 4279-3, "Conditional Commitment" - The form is used by the Agency to provide notice to the lender, subject to lender 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"- This form is the signed agreement between USDA and the lender setting forth the lender's loan responsibilities. Each lender will execute the form once. It will then apply to all B&I and REAP loans the lender makes thereafter. The form will expire for non-regulated lenders after a 3 year period and must be renewed in order for the lender to continue to originate new loans.

Form RD 4279-6, "Assignment Guarantee Agreement" - The form is the signed agreement among the Agency, lender, and holder, setting forth the terms and conditions of an assignment of all or a portion of the guaranteed portion of a loan.

Form RD 4279-8, "Certified Lender" - This form, which is covered under the current package, is being obsoleted.

Form RD 4279-14, "Unconditional Guarantee" – The form is used to obtain an unconditional guarantee from an individual or corporate entity that owns 20 percent or more interest in the borrower. This form is in addition to any guarantee forms used by lenders. The Agency is establishing uniformity in obtaining and collecting against guarantees and will treat all guarantors consistently and rectify any ambiguities regarding its ability to refer delinquent debts to the Treasury for collection under the Debt Collection Improvement Act.

A Transfer and Assumption of an existing borrower is allowed under the regulations. In accordance with 7 CFR § 4279.149, the lender must obtain new personal and/or corporate guarantee(s) from all owners that have a 20 percent or more interest in the transferee. Also, this form will be used when the borrower sells 20 percent or more of the corporate stock and the Agency may require the new owners to provide a personal/corporate guarantee on loan.

Form RD 1980-41, "Guaranteed Loan Status Report" - The Agency requires the lender to complete this form twice per year, June and December. 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 completing the Agency financial statements. The Form RD 1980-41, Guaranteed Loan Status Report, is now accessible to the lender through the Lenders Interactive Network Connection (LINC). The lender must designate a Security Administrator, who can then add other users to the LINC system. An e-mail notice will be sent to the Security Administrator and other designated users semi-annually (on or before June 30 and December 31) indicating the requirement to update the status report. Lenders with access to LINC must complete the status report on-line at the LINC Web site. Lenders without LINC access must send a completed Form RD 1980-41, Guaranteed Loan Status Report, to the applicable State/Field Office. The report should be received within 30 days after June 30 and December 31. The annual renewal fee should be submitted with the December 31 report.

<u>Form RD 1980-44, "Guaranteed Loan Borrower Default Status</u>" - 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. The lender submits Form RD 1980-44, default reports, when the loans are 30 days past due and cannot become current within 30 days. This form has been automated for the lender to access it electronically and update it bi-monthly through LINC.

<u>Form RD 1980-43, "Lender's Guaranteed Loan Payment to USDA,</u>" (OMB No. 0570-0065) - The Agency requires the lender to use of this form to send guaranteed loan payments to the Agency Finance Office on loans repurchased from the secondary market. For this regulation only, we estimate 100 respondents monthly completing this form taking approximately 30 minutes each for a total of 600 man hours. (This form will be made a common form when then package comes up for renewal).

<u>Form RD 449-30, "Loan Note Guaranteed Report of Loss,</u>" (OMB No. 0575-0137) - The Agency requires the lender to use of this form to process estimated and final reports of loss on guaranteed loans. For this regulation only, we estimate 100 respondents taking approximately 25 hours each to complete this form for a total of 2,500 man hours. (This form will be made a common form when then package comes up for renewal).

<u>Form RD 1940-20, "Request for Environmental Information,"</u> (**OMB No. 0575-0094)** - The information collected from the applicant is used by the Agency in preparing the environmental assessment. It is needed only for specific loanmaking or servicing actions. No requirement in this section imposes a burden that is not specified in the specific program regulation. (This form will be made a common form when then package comes up for renewal).

<u>Form RD 1980-19, "Guaranteed Loan Closing Report,</u>" (OMB No. 0570-0065) - 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. (This form will be made a common form when then package comes up for renewal).

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.

4279-A & B. The Agency has automated various forms used to apply for loan guarantees, and fillable forms are available on the USDA Service Center and Rural Development websites. Lenders may complete the automated forms and submit hard copies of the forms with original signatures to the Agency. Loan application forms are not currently submitted electronically due to security concerns and the lack of electronic signature capability. However, some application materials are accepted electronically, such as the preapplication letter, lender's analysis, financial statement spreads, credit reports, proposed loan agreements, and business plans. This program does not utilize the Grants.gov Web site, but the Agency is currently working on the e-Gov initiative that will eventually be capable of receiving applications and other forms electronically. A concern that will need to be addressed is how to accept appraisals and feasibility studies electronically while ensuring validity and environmental information that may contain several different types of maps such as site, flood, and wetlands maps. It is important to understand that electronic submission of all the paperwork that is required for a loan will not reduce burden to applicants as it is the same paperwork that must be completed, regardless of the mode of submission. In fact, the electronic scanning of appraisals and feasibility studies could actually increase burden.

4287-B. The Agency has developed the capability to receive the biennial and monthly default status reports electronically. Lenders can complete these forms through Guaranteed Loan System (GLS). They receive a certified, secure ID through the State office. However, only lenders with a high volume of guaranteed loans have elected to utilize them. The lender submits some information electronically through the USDA Lender Interactive Network Connection (LINC). The lender must designate a Security Administrator who can then add other users to the LINC system.

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 Agency communicates with other institutions involved with business development for the purpose of sharing information and coordinating respective activities. When similar information is identified, action is taken to avoid duplication.

5. The collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden. Only minimal information that is needed to determine program eligibility and the creditworthiness of a credit proposal is requested. Lenders making loans without guarantees typically require as much or almost as much information from a business applicant. The information required of lenders is needed to determine a lender and borrower's eligibility and creditworthiness.

The Agency will require the information only in those instances where a determination is made that the information is necessary and thus minimizing, to the extent possible, the cost to small businesses or other small entities. Every effort has been made to minimize burden to small businesses. Out of the 3,675 respondents, the agency estimates 50 percent are small business.

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. The information needed for loan approval is typically needed only once. With less information, the Agency would be more likely to guarantee substandard loans, thus increasing Agency losses.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner: There are no special circumstances that would cause information collection to be conducted in any manner described in (b) through (h) below:

> **(a) Requiring respondents to report information more than quarterly.**
> For 7 CFR part 4287, subpart B, lenders must submit Form RD 1980-44 every month for borrowers who are delinquent.
>
> **(b) Requiring written responses in less than 30 days.**
>
> **(c) Requiring more than an original and two copies.**
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> **(d) Requiring respondents to retain records for more that 3 years.**
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> **(e) Not utilizing statistical sampling.**
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> **(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 other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5.

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 record keeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.

In accordance with the Paperwork Reduction Act of 1995, the agency embedded a 60-day notice for comment within the proposed rule.

As part of the Agency's internal control measures, it conducts assessments of its loan programs by interviewing commercial lenders, existing borrowers, Agency field employees, and others. Among the topics discussed during these interviews, we ask the interviewees if they feel any of the Agency-imposed requirements are excessive or could be handled differently, and incorporate their suggestions into program regulations. They were generally satisfied with program requirements. We have identified two lenders and the Director of the U.S. Rural Development Council as those interviewed.

a. Bridgeview Capital Solutions
   3353 Peachtree Road, North Tower, Suite 1040
   Atlanta, Georgia 30326
   (800) 386-3722

b. Stephen F. Decker
   WesBanco Bank, Inc.
   415 Market Street
   Parkersburg, West Virginia 26102
   (304) 480-2501

c. Bob Coleman
   Director
   U.S. Rural Development Council
   P.O. Box 546
   La Canada, California 91012
   818-541-6610

9. Explain any decision to provide any payment or gift to respondents, other than renumeration of contracts or guarantees. No payments or gifts are 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 question 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. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

This proposed rule submission has 3,675 respondents, 24,976 responses for a total of 33,763 burden hours.

The attached spreadsheet describes burden for each form utilized and each section of the regulation that impacts the public, as well as the annualized total. There is also a separate breakdown in the spreadsheet for each collection package that shows the difference between the currently approved burden and the proposed rule burden for each item on the spreadsheet.

For 7 CFR parts 4279-A and B deals with the actual application process. Based on past history of pre-applications and applications received, and award of loans made from each of the three collections, the Agency expects to receive 100 pre-applications and 600 applications, from which they will make 550 loans. Many of the requirements will not be needed from every applicant. Requirements are based on the type of applicant and in what type of business the applicant is engaged. Requirements can be found in Section 4279.161 of 4279-B. The application type information requested will only be needed once, while servicing type information may be needed annually, for the life of the loan. Depending on the complexity of the loan and skills of the loan applicant, the amount of information actually prepared by the applicant varies considerably. The response time per response ranges from 30 minutes for simple documentation to 12 hours for documentation to become an eligible non-regulated lender or for an appeal.

Since 7 CFR part 4287-B deals with servicing, the burden estimates in this submission are based on the assumption that funding level for the B&I program will remain at approximately $1 billion in annual lending authority, resulting in an average portfolio over the next 3 years of 3,500 loans and 3,000 borrowers. From 2008 to through 2011, the average funding for the B&I program was $1.1 billion. However, in fiscal year 2009, the Agency received $1.5 Billion in American Recovery and Reinvestment Act (ARRA) funds, and the Agency's portfolio grew significantly. As of March 2012, there were over 3,000 guaranteed loan borrowers. However, excluding fiscal year 2009, the Agency's guaranteed loan portfolio has increased (on average) by about 550 loans each year, after adjusting for the loans that pay off or otherwise are no longer part of the portfolio. On average, each borrower has 1.071 loans.

- **Provide estimates of annualized cost to respondents for the hour burdens for the collection of information, identifying and using appropriate wage rate categories.**

Most of the respondents are relatively highly paid professionals including financial specialists, financial analysts, and credit/loan officers. We determined that the hourly wage class was $36 per hour based upon the Bureau of Labor Statistics, http://www.bls.gov/oes/current/oes_nat.htm. The overall cost is estimated at $1,458,396.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour

burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected use of life; and (b) a total operation and maintenance and purchase of services component. There are no start-up/operation and maintenance costs associated with this package.

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

The annual cost to the Federal Government to collect and evaluate this information is estimated to be about $1,146,663 per fiscal year (see attached spreadsheet). Most of the review work is completed by GS-11 & 12 State Loan Specialists and GS-13 State Program Directors, with GS-7 & 8 Loan Technicians and clerks doing most of the computer data entry and typing. Accordingly, the average rate was determined to be $27 per hour. The hours were computed by estimating the average time it takes to review documentation, approve requests, and maintain the accounting and tracking systems.

The hours were computed by estimating the average time it takes to review a preapplication package, including Department of Labor clearance when required; an application package, including the lender analysis and conducting negotiations and conferences with lender, a site visit, and environmental assessment; assigning a loan priority score; approving and obligating the loan, including preparing the Conditional Commitment; and issuing the Loan Note Guarantee, including reviewing the lender's certification and comparing it against conditions of the loan and program regulations.

A common servicing action would be for a GS-8 or GS-9 State Loan Technician to run a Guaranteed Loan System report for the Program Director (GS-13), which identifies the borrowers and the financial statement requirements. A letter is prepared by the State Loan Technician or Program Clerk (GS-5) for the Program Director's signature (GS-13) or State Director's signature (SES) requesting the lender to provide the financial statements and analysis to the Agency. The lender will provide this information, if available to the Agency. It will be reviewed by the State Program Loan Specialist (GS-12) and should any adverse trends be noted, a letter will be prepared by the State Program Clerk (GS-5) and signed by the Program Director (GS-13) or State Director (SES). The letters are signed on Rural Development standard letterhead. No other specific government form is required for this process.

For a detailed breakout, please see the attached to the spreadsheet.

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

The proposed rule is combining burden from three currently approved collections: 0570-0016, 0570-0017 and 0570-0018 into this new collection.

The baseline is the approved burden in all three current packages being added together as shown below

PRA Package	Hours	Responses
OMB No. 0570-0016	20,452	23,703
OMB No. 0570-0017	13,679	5,570
OMB No. 0570-0018	1,269	617
Previous TOTAL	35,400	29,860

The proposed rule submission has 3,675 respondents and reflects a decrease in the baseline totals of 4,884 responses and 1,637 hours for a total 24,976 responses and 33,763 burden hours. These changes are a result of the actions below and are shown in further detail on each package's "changes in burden" in the spreadsheet.

The reporting requirement for a non-regulated lender (formerly non-traditional lender) has been increased by 2 hours to account for the additional information required to become an eligible non-regulated lender in the B&I program. Additionally, the Certified Lender Program (CLP) no longer exists in the regulation, so its reporting requirements have been deleted. Accordingly, the reporting requirement for funds reservation under the CLP has also been deleted. The reporting requirement for the financing of housing development sites no longer exists as this is no longer an eligible loan purpose. Loan guarantee limits has been split out because there are two different limits – loan limits and percentage of guarantee limits and the burden for each is separated. Change in conditions requests have been added as the lender has the ability to request changes to the Conditional Commitment and must formally request those changes. A requirement for the borrower to provide a Central Contractor Registration number has been added.

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. No approval is being sought.

18. Explain each exception to the certification statement identified in item 19 on OMB 83-I. There are no exceptions to the Certification.

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? Recipients of B&I loan assistance are rural businesses, which typically are not agricultural. Consequently, very little of the information collected for this program would be useful in the Service Center Initiative. The information is used only for administering the B&I Program.