

PROPOSED RULE FOR REAP

2013 Supporting Statement
Rural Energy for America Program
Under Title IX, Section 9007
OMB No. 0570-NEW

The burden estimated in this supporting statement will replace the burden approved by the Office of Management and Budget for the current Renewable Energy System (RES) and Energy Efficiency Improvement (EEI) grant and guaranteed loan program and two notices of funding availability covering RES feasibility study grants, energy audit (EA) grants, and renewable energy development assistance (REDA) grants. The OMB approval numbers for the current RES/EEI loan and grant program and the two notices are: 0570-0050 (current RES/EEI program), 0570-0059 (EA/REDA grants), and 0570-0061 (RES feasibility study grants).

A. Justification

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

The collection of this information is required pursuant to the passing of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), which established the Rural Energy for America Program (REAP) under Title IX, Section 9007. An interim rule was published in the Federal Register on April 14, 2011, combining RES/EEI grants and guaranteed loans, RES feasibility study grants, and EA/REDA grants into a single subpart, 7 CFR 4280, subpart B, to comprise the Rural Energy for America Program. However, the collection of information was approved as three separate packages as discussed above. This proposed rule will make the collection of necessary information for REAP into one burden package.

The Rural Energy for America Program, which supersedes the Renewable Energy Systems and Energy Efficiency Improvements Program under Title IX, Section 9006 of the Farm Security and Rural Investment Act of 2002 (commonly referred to as the 2002 Farm Bill) is designed to help agricultural producers and rural small business reduce energy cost and consumption, develop new income streams, and help meet the nation's critical energy needs by requiring the Secretary of Agriculture to provide grants and/or guaranteed loans for several types of projects as follows:

- grants, loan guarantees, and grants and loan guarantees (combined funding) to agricultural producers and rural small businesses to purchase renewable energy systems and make energy efficiency improvements.
- grants to agricultural producers and rural small businesses to conduct feasibility studies for renewable energy systems that are eligible for financial assistance under the Rural Energy for America Program. These grant funds may be used only to conduct feasibility studies for renewable energy systems that would qualify for funding under the REAP. Agricultural producers and rural small businesses would be required to pay at least 75 percent of the cost of the feasibility study.
- grants to eligible entities to provide energy audits and renewable energy development assistance to enable agricultural producers and rural small businesses to become more

PROPOSED RULE FOR REAP

energy efficient and to use renewable energy technologies and resources. Entities eligible to receive grants under this program are State, tribal and local governments; land-grant colleges and universities or other institutions of higher learning; rural electric cooperatives; public power entities; and instrumentalities of local, state, and federal governments. These grant funds may be used to conduct and promote energy audits; provide recommendations and information on how to improve the energy efficiency of the operations of the agricultural producers and rural small businesses; and provide recommendations and information on how to use renewable energy technologies and resources in the operations. No more than five (5) percent of the grant can be used for administrative purposes. Agricultural producers and rural small businesses for whom a grantee is conducting an energy audit must pay at least 25 percent of the cost of the energy audit.

2. Explain how, by whom, and for what purpose the information is to be used.

Agricultural producers and rural small businesses that wish to apply for a RES/EEI grant or guaranteed loan will have to submit applications with specified forms, certifications, and agreements to the Agency. Applicants seeking a feasibility study grant will have to submit applications that include specific information about the applicant and the proposed feasibility study (e.g., the renewable energy project for which the study will be conducted; matching funds) and the experience of the entity that will be conducting the feasibility study. Applicants seeking an EA/REDA grant will have to submit applications that include a project proposal with specified information, certifications, and agreements to the Agency.

For RES/EEI applications, this information will be used to determine applicant eligibility, to determine project eligibility and technical merit, and to ensure that grantees/borrowers operate on a sound basis and use funds for authorized purposes. For feasibility study applications, this information will be used by the Agency to determine applicant and project eligibility, to ensure that funds are used for authorized purposes, and to help ensure that an acceptable feasibility study will be conducted under the grant. For EA/REDA applications, this information will be used to determine applicant and project eligibility and to ensure that funds are used for authorized purposes.

GRANTS – RES and EEI

REPORTING REQUIREMENTS – NO FORMS

Review and appeals

The applicant, borrower, lender, or holder may seek a review or appeal any adverse Agency decision. Only applicants may appeal adverse decisions on the grant application. Appeals are handled in accordance with Departmental appeal regulations.

PROPOSED RULE FOR REAP

System for Awards Management (SAM) and Dun and Bradstreet Data Universal Numbering System (DUNS)

Unless exempt under 2 CFR § 25.110, the grantee must be registered in the SAM prior to submitting an application or plan, maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by the Agency, and provide its DUNS number in each application or plan it submits to the Agency. In addition, before the Grant Agreement can be executed, the grantee must report to the Agency the number and expiration date of the applicant's SAM number.

Association or Relationship with Rural Development Employees

The applicant must identify whether or not they have a known relationship or association with an Agency employee. If there is a known relationship, the applicant must identify each Agency employee with whom the applicant has a known relationship.

Applicant certifications

Each applicant must certify that: (1) they are a legal entity in good standing (as applicable), and operating in accordance with the laws of the state(s) where the applicant has a place of business, (2) the equipment required (if applicable) for the project is available, can be procured and delivered within the proposed project development schedule, and must be installed in conformance with manufacturer's specifications and design requirements and (3) the project will be constructed in accordance with applicable laws, regulations, agreements, permits, codes, and standards.

Application

The Agency has defined three application processes based upon total project cost. This includes requirements for projects with a total project cost of greater than \$200,000, projects with a total project cost of \$200,000 or less, and projects with a total project cost of \$80,000 or less.

For projects with a total project cost of greater than \$200,000 and projects with a total project cost of \$200,000 or less, the following is required unless otherwise noted.

1. Applicant type - Applicants must demonstrate that they meets the definition of agricultural producer or rural small business as defined in § 4280.103, including appropriate information necessary to demonstrate that the applicant meets the agricultural producer's percent of gross income derived from agricultural operations or the rural small business' size, as applicable, requirements identified in these definitions. Also, a description of the applicant's farm/ranch/business operation should be included.
2. Applicant description - Applicants must describe how they meet the ownership and control requirements and include any information on affiliated companies.

PROPOSED RULE FOR REAP

3. Financial information (only on projects with a total project cost of greater than \$200,000) - Financial information is required on the total operation of the agricultural producer/rural small business and its parent, subsidiary, or affiliates at other locations. The applicant must provide historical financial statements prepared in accordance with Generally Accepted Accounting Practices (GAAP) for the past 3 years, including income statements and balance sheets. If agricultural producers are unable to present this information in accordance with GAAP, they may instead present financial information for the past years in the format that is generally required by commercial agriculture lenders. Applicant must provide a current balance sheet and income statement prepared in accordance with generally accepted accounting principles (GAAP) and dated within 90 days of the application. Agricultural producers should present financial information in the format that is generally required by commercial agriculture lenders. In addition, applicants must provide pro forma balance sheet at startup of the agricultural producer's/rural small business' business that reflects the use of the loan proceeds or grant award; and 3 additional years, indicating the necessary start-up capital, operating capital, and short-term credit; and projected cash flow and income statements for 3 years supported by a list of assumptions showing the basis for the projections.
4. Previous grants and loans – Applicants must discuss whether they have received any grants and/or loans under this subpart. If the applicant has, identify each such grant and/or loan and describe the progress the applicant has made on each project for which the grant and/or loan was received, including projected schedules and actual completion dates.
5. Project information – Applicants must provide information concerning the proposed project as a whole and its relationship to the applicant's operations, including the whether the project is for a renewable energy system or an energy efficiency improvement project, a description of the process that will be used to conduct all procurement transactions to demonstrate compliance with § 4280.124(a)(1), a description of how the proposed project will have a positive effect on resource conservation, public health, and the environment and also they must identify the amount of matching funds and the source(s) they are proposing to use for the project.
6. Feasibility study - A feasibility study prepared by a qualified consultant will be required for all renewable energy system projects that exceed \$200,000. The business-level feasibility study must include an evaluation of the market, financial, economic, technical, and management feasibility of the proposed project in accordance with Appendix D. This study must also include an opinion and a recommendation by the qualified consultant. Energy efficiency improvement projects do not require a feasibility study to be completed.
7. Technical report - Applicants must submit a technical report that conforms to Appendix A in the rule for energy efficiency improvement projects and Appendix B for renewable energy system projects with total eligible project costs of \$200,000 or less or Appendix C

PROPOSED RULE FOR REAP

for renewable energy projects with total eligible project costs greater than \$200,000.

8. Self-score - Applicants have the option to submit a self-score of the project using the evaluation criteria in § 4280.120, including appropriate calculations and attached documentation, or specific cross-references to information elsewhere in the application.
9. Applicant certification - Applicants that submit an application for a project with a total project cost of \$200,000 or less must also certify that they meet all of the requirements for submitting in accordance with 4280.118 (a).

For projects with a total project cost of \$80,000 or less, the following is required unless otherwise noted.

1. Self-score - Applicants have the option to submit a self-score of the project using the evaluation criteria in § 4280.120, including appropriate calculations and attached documentation, or specific cross-references to information elsewhere in the application.
2. Applicant certification – Applicants must certify to the following items.
 - a. The applicant meets each of the applicant eligibility criteria found in § 4280.112;
 - b. The proposed project meets each of the project eligibility requirements found in § 4280.113;
 - c. The design, engineering, testing, and monitoring will be sufficient to demonstrate that the proposed project will meet its intended purpose;
 - d. The equipment required for the project is available, can be procured and delivered within the proposed project development schedule, and must be installed in conformance with manufacturer’s specifications and design requirements. This would not be applicable when equipment is not part of the project;
 - e. The project will be constructed in accordance with applicable laws, regulations, agreements, permits, codes, and standards;
 - f. The applicant meets the criteria for submitting an application for projects with total project costs of \$80,000 or less;
 - g. The applicant will abide by the open and free competition requirements in compliance with § 4280.124(a)(1);
 - h. For bioenergy projects, any and all woody biomass feedstock from National forest system land or public lands cannot be used as a higher value wood-based product; and
 - i. For applications for the installation of equipment and tanks directly associated with flexible fuel pumps, blended liquid transportation fuel is available and there is demand for that fuel in its service area.
3. Previous grants and loans – Applicants must discuss whether they have received any grants and/or loans under this subpart. If the applicant has, identify each such grant

PROPOSED RULE FOR REAP

and/or loan and describe the progress the applicant has made on each project for which the grant and/or loan was received, including projected schedules and actual completion dates.

4. Project information – Applicants must provide information on whether the project is for a renewable energy system or an energy efficiency improvement project, the primary NAICS code applicable to the applicant’s operation if known or a description of the operation in enough detail for the Agency to determine the primary NAICS code; a description of how the proposed project will have a positive effect on resource conservation, public health, and the environment and the amount of matching funds and the source(s) they are proposing to use for the project.
5. Technical reports – Energy efficiency improvement technical reports must be completed in accordance with 4280.119 (b)(3) and renewable energy system technical reports must be completed in accordance with 4280.119(b)(4).

Grantee Requirements

Insurance

Property, liability and national flood insurance in accordance with 7 CFR part 1806, subpart B, and, except for projects with total eligible project costs of \$200,000 or less, business interruption insurance appropriate to the grantee’s particular business and circumstances are required.

Construction Planning and Performing Development

RBS will use construction planning and performing development requirements of 4280.124 as applicable. Owners are allowed to perform project development work provided they meet certain experience requirements. For project with a total project cost of \$200,000 or less or projects with a total project cost of \$80,000 or less, the Agency does not need to approve contracts, but will require a certification from contractor of final completion and the grantee’s statement of accepting the contractor’s work.

Evidence of Matching Funds

Either with the application or before obligation of funds, the applicant must provide written commitment of matching funds from each source.

Power Purchase Agreement

Where applicable and unless otherwise approved by the Agency, grantees are required to provide the Agency with a copy of the executed power purchase agreement within 12 months of grant approval.

Programmatic Changes

The grantee must obtain prior Agency approval for any change to the costs, scope, or contractor or vendor of the approved project. Failure to obtain prior approval of any such change could result in suspension, termination, and recovery of grant funds. Requests for changes must be

PROPOSED RULE FOR REAP

submitted in writing to the Agency.

Transfer of Obligation

Prior to the construction of the project, the grantee may request in writing a transfer of obligation to a different (substitute) grantee. Subject to Agency approval provided in writing, an obligation of funds established for a grantee may be transferred to a substitute grantee under certain circumstances.

Transfer of Ownership

After the construction of the project, the grantee may request in writing a transfer of the grant agreement to another entity. Subject to Agency approval provided in writing, the grant agreement may be transferred to another entity under certain circumstances.

Disposition Instructions for Acquired Property

Grantees must abide by the disposition requirements outlined in Departmental regulations.

Project Performance Reports

Grantees will be required to submit a project performance report on a semiannual basis. The report will compare actual accomplishments to objectives, provide explanations if objectives are not obtained, and outline ways to correct problem situations. It will also outline objectives and timetables for the next reporting period.

Final Project Performance

The final project development report must be submitted 90 days after project completion and include a detailed project funding and expense summary and a summary of the project's installation/construction process, including recommendations for development of similar projects by future applicants to the program.

Outcome Project Performance Reports

Once the project has been constructed, the grantee must provide the Agency periodic reports. For renewable energy system projects, commencing the first full calendar year following the year in which project construction was completed and continuing for 3 full years, the grantee must provide the type of technology; actual annual amount of energy generated in BTUs, kilowatt-hours, or similar energy equivalents; annual income for systems that are selling energy, if applicable, and/or energy savings of the renewable energy system; a summary of the cost of operations and maintaining; a description of any associated major maintenance or operational problems; recommendations for development of future similar projects; and the actual number of jobs created or saved as a result of the REAP funding.

For energy efficiency improvement projects, commencing the first full calendar year following the year in which project construction was completed and continuing for 2 full years, the grantee must provide a report detailing (including calculations and any assumptions) the actual amount of energy saved annually as determined by the difference between the annual amount of energy used by the project with the project in place and the annual average amount of energy used for

PROPOSED RULE FOR REAP

the 36-month period prior to application submittal as reported in the application; and the actual number of jobs created or saved as a result of the REAP funding.

REPORTING REQUIREMENTS – FORMS APPROVED WITH THIS DOCKET

Form RD 4280-2, “Rural Business and Cooperative Service Grant Agreement.” RBS and the grantee at grant closing execute the grant agreement. This document outlines the responsibilities of the grantee. This document is necessary to ensure grant funds are used only for the purposes and activities specifically approved.

Form AD-1047, “Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions” or other written documentation. This form certifies that the grantee is not presently debarred, suspended, or voluntarily excluded from covered transactions by any Federal department or agency.

Form AD-1048, “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions” or other written documentation. This form, submitted by the grantee, certifies that lower tier participants are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency.

Form AD-1049, “Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals.” This form identifies the items that the grantee must certify to in order to carry out a drug-free workplace.

REPORTING REQUIREMENTS - FORMS APPROVED UNDER OTHER OMB NUMBERS

SF-424, "Application for Federal Assistance" (OMB No. 4040-0004). This is the standard application required to be executed for all Federal grant programs. It is the required face sheet for applications for Federal grant funding.

SF-424C, “Budget Information – Construction Programs” (OMB No. 4040-0008). This is the standard form used by applicants to breakdown the line item budget costs in detail.

SF-424D, “Assurances – Construction Programs” (OMB No. 4040-0009). This is the standard form signed by applicants to provide assurances that they will meet certain requirements of OMB Circular A-102.

SF-425, “Federal Financial Report” (OMB No. 0348-0061). This is the standard form used by the grantee to confirm that funds are being spent in conformity with the budget and work plan.

SF-LLL, “Disclosure of Lobbying Activities” (OMB No. 0348-0046). Grantees who are

PROPOSED RULE FOR REAP

awarded grants over \$100,000 and/or lobby are required to complete this form.

SF-271, “Outlay and Request for Reimbursement for Construction Programs” (OMB No. 0348-0002). This is the standard form used by the grantee to request advances or reimbursement of cash outlays.

Form RD 1940-20, “Request for Environmental Information.” This form requests, from the applicant, environmental information regarding the elements of its application. This information is, in turn, used by Rural Development to complete an environmental assessment of the application.

RD 1942-46, “Letter of Intent to Meet Conditions.” This form indicates a grantee’s acceptance of conditions found in the letter of conditions. The form also allows the grantee to propose alternative conditions.

Form 1940-1, “Request for Obligation of Funds.” This form is completed by the grantee for each note or commitment requiring an obligation of funds.

“Form to Assist in Assessment of USDA Compliance with Civil Rights Laws” (OMB No. 0503-0019). This form, which is voluntary, is used to collect information on an applicant’s race, ethnicity, and gender. Applicants who have provided this information to the Agency previously do not need to resubmit this form. (NOTE: There is no form number assigned to this form.)

Form RD 400-1, “Equal Opportunity Agreement.” Each grantee is required to complete this form to comply with Equal Opportunity requirements.

Form RD 400-4, “Assurance Agreement.” Each grantee is required to complete this form to comply with Civil Rights Acts and laws.

RD 400-6, “Compliance Statement.” This form, submitted by the grantee, is used to reveal whether the bidder or prospective Contractor is in default with respect to Compliance reports required under any previously covered contract or subject to the “Affirmative Action Program” and to provide for certification regarding the maintenance or use of non-segregated facilities.

RD 1924-9, “Certificate of Contractor's Release.” This form, submitted by the grantee, is used by contractors to certify that payment has been made in full for all material and labor used in the performance of this contract and to release the borrower from any claims which might arise by virtue of the contract.

RD 1924-10, “Release by Claimants.” This form is prepared by the grantee/borrower in connection with work performed under the contract method when a surety bond is not used.

RD 1924-6, “Construction Contract.” This form, prepared by the grantee, builder, architect, or engineer, sets forth specific conditions and terms of a construction contract. The grantee and

PROPOSED RULE FOR REAP

builder must sign the form indicating their commitment to fulfill their responsibilities described in the agreement. The collection of information for the form is a normal business practice.

GUARANTEED LOANS – RES and EEI

The reporting requirements in this section identify those reporting requirements specific to the guaranteed loans, including the loan portion of a combined funding request for RES and EEI projects. Requirements common to both the grant portion and the guaranteed loan portion (e.g., application narrative, technical reports) for combo requests are covered under the RES/EEI grant discussion above.

REPORTING REQUIREMENTS - NO FORMS

Reviews and appeals

The applicant, borrower, lender, or holder may seek a review or appeal any adverse Agency decision. Appeals are handled in accordance with Departmental appeal regulations.

System for Awards Management (SAM) and Dun and Bradstreet Data Universal Numbering System (DUNS)

Unless exempt under 2 CFR § 25.110, the grantee must be registered in the SAM prior to submitting an application or plan, maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by the Agency, and provide its DUNS number in each application or plan it submits to the Agency. In addition, before the Grant Agreement can be executed, the grantee must report to the Agency the number and expiration date of the applicant's SAM number.

Application Requirements

The application requirements presented below are those associated with the guaranteed loans, including requirements for combined funding request.

The applicant provides the same information in a guaranteed loan application shown earlier for Grants under "Application." In addition, the following would be included:

1. Feasibility study (loan only requests) - A feasibility study prepared by a qualified consultant will be required for all renewable energy system projects that exceed \$200,000. The business-level feasibility study must include an evaluation of the market, financial, economic, technical, and management feasibility of the proposed project in accordance with Appendix D. This study must also include an opinion and a recommendation by the qualified consultant. Energy efficiency improvement projects do not require a feasibility study to be completed.
2. Technical report (loan only requests) - Applicants must submit a technical report that conforms to Appendix A in the rule for energy efficiency improvement projects and Appendix B for renewable energy system projects with total eligible project costs of

PROPOSED RULE FOR REAP

\$200,000 or less or Appendix C for renewable energy projects with total eligible project costs greater than \$200,000.

3. Personal credit reports - Used to evaluate the credit history of the owners as an aid in the credit evaluation completed by the Agency and lender. These are typically required by lenders for non-guaranteed loans.
4. Appraisal reports (loan requests over \$600,000)
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.
5. Commercial credit report - 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. These reports are typically required by lenders for non-guaranteed loans.
6. Current personal and corporate financial statements of any guarantors - 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. These are typically required by lenders for non-guaranteed loans.
7. Financial information (loan only projects with a total project cost of greater than \$200,000) - Financial information is required on the total operation of the agricultural producer/rural small business and its parent, subsidiary, or affiliates at other locations. The applicant must provide historical financial statements prepared in accordance with Generally Accepted Accounting Practices (GAAP) for the past 3 years, including income statements and balance sheets. If agricultural producers are unable to present this information in accordance with GAAP, they may instead present financial information for the past years in the format that is generally required by commercial agriculture lenders. Applicant must provide a current balance sheet and income statement prepared in accordance with generally accepted accounting principles (GAAP) and dated within 90 days of the application. Agricultural producers should present financial information in the format that is generally required by commercial agriculture lenders. In addition, applicants must provide pro forma balance sheet at startup of the agricultural producer's/rural small business' business that reflects the use of the loan proceeds or grant award; and 3 additional years, indicating the necessary start-up capital, operating capital, and short-term credit; and projected cash flow and income statements for 3 years supported by a list of assumptions showing the basis for the projections.
8. Lender's analysis - The lender prepares a complete comprehensive credit analysis that is the lender's justification for making the loan. The Agency relies on this analysis as a

PROPOSED RULE FOR REAP

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.

9. Lender certification - A certification by the lender that indicates the borrower 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 would not prepare this if it were not required by the Agency.
10. 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. Always required by lenders for non-guaranteed loans, but the Agency may require more covenants than the lender would typically require.

Outcome Project Performance Reports (loan only requests)

Once the project has been constructed, the grantee must provide the Agency periodic reports. For renewable energy system projects, commencing the first full calendar year following the year in which project construction was completed and continuing for 3 full years, the grantee must provide the type of technology; actual annual amount of energy generated in BTUs, kilowatt-hours, or similar energy equivalents; annual income for systems that are selling energy, if applicable, and/or energy savings of the renewable energy system; a summary of the cost of operations and maintaining; a description of any associated major maintenance or operational problems; recommendations for development of future similar projects; and the actual number of jobs created or saved as a result of the REAP funding.

For energy efficiency improvement projects, commencing the first full calendar year following the year in which project construction was completed and continuing for 2 full years, the grantee must provide a report detailing (including calculations and any assumptions) the actual amount of energy saved annually as determined by the difference between the annual amount of energy used by the project with the project in place and the annual average amount of energy used for the 36-month period prior to application submittal as reported in the application; and the actual number of jobs created or saved as a result of the REAP funding.

Funds Reservation

Certified Lender Program (CLP) lenders may request, in writing, that funds be reserved for a loan application it intends to submit. This assures the CLP lender that funds will be available to fund its loan.

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

PROPOSED RULE FOR REAP

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 is lost, stolen, destroyed, mutilated, or defaced by the lender or holder, the Agency will replace it when the lender provides the Agency with documentation and an indemnity bond.

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 potential effect on project feasibility must be reviewed by the Agency.

Planning and Performing Development for Lender

The lender is required to monitor all construction activities including design, construction, and startup, conducting inspections to ensure that construction meets applicable codes. The lender will also ensure that the project will be completed with available funds.

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 applicant is still eligible and 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.

Issuance of Loan Note Guarantee

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

If 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.

Loan Classification

PROPOSED RULE FOR REAP

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

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 will meet with each lender at least annually. Because lenders typically have more than one guaranteed borrower, multiple borrowers are discussed at a single visit.

Quarterly Financial Reports

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

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

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

The lender is responsible for the legal documentation of interest rate changes by an endorsement

PROPOSED RULE FOR REAP

or any other legally effective amendment to the promissory note. The Agency must be notified in writing of all interest rate changes. The Government's financial interest must not be adversely affected by any reduction in the interest rate.

When the change is simply a change in rate in a variable rate note, the Agency is typically advised by simple notation on Form RD 1980-41 or RD 1980-44. The burden associated with the forms is addressed separately in this package.

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.

Subordination of Lien Position

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.

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 an explanation of the reason for the proposed changes, completed by the lender.

Loan transfer and Assumption

All transfers and assumptions must be approved in writing by the Agency and generally must be made to eligible borrowers. 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.

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.

PROPOSED RULE FOR REAP

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 60 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 \$5,000.

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. 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 (or the Agency, at its option, decides to take over servicing and liquidating of the account) 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.

PROPOSED RULE FOR REAP

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.

REPORTING REQUIREMENTS - FORMS APPROVED UNDER THIS DOCKET

In addition to the forms required for the grant portion of a combined funding request, the following forms are required for the guaranteed loan portion of the combined funding request.

Form RD 4279-1, “Application for Loan Guarantee (Business and Industry)” and Form RD 4279-1A, “Application for Loan Guarantee (Business and Industry Short Form-One Doc)”.

The information collected on these forms is used by the Agency to determine applicant eligibility for program assistance and to provide financial and other data about the applicant and lender.

Form RD 4279-1 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. Form RD 4279-1A contains two parts – the borrower completes Part I and the lender completes Part II.

Under REAP, if the guaranteed loan amount is greater than \$600,000, Form RD 4279-1 is used. If the guaranteed loan amount is \$600,000 or less, then Form RD 4279-1A is used.

Form RD 4279-3, “Conditional Commitment.” This form is used by the Agency to provide notice to the lender and 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.

Form RD 4279-6, “Assignment Guarantee Agreement.” The form is the signed agreement between 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 4279-14, “Unconditional Guarantee”. This form is used to obtain an unconditional guarantee from an individual or corporate entity that owns more than 20 percent interest. This form will replace 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 DCIA.

REPORTING REQUIREMENTS - FORMS APPROVED UNDER OTHER OMB NUMBERS

PROPOSED RULE FOR REAP

Form RD 1940-20, “Request for Environmental Information (loan only requests).” This form requests, from the applicant, environmental information regarding the elements of its application. This information is, in turn, used by Rural Development to complete an environmental assessment of the application.

Form RD 1980-19, “Guaranteed Loan Closing Report.” The information is used by the Agency to establish the account in its accounting system. The Agency prepares the form. The lender verifies it for accuracy.

Form RD 449-30, “Loan Note Guaranteed Report of Loss.” The Agency requires the lender to use this form to process estimated and final reports of loss on guaranteed loans.

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 the completing the Agency financial statements.

Form RD 1980-43, “Lender’s Guaranteed Loan Payment to USDA.” 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.

Form RD 1980-44, “Guaranteed Loan Borrower Default Status.” The Agency requires the lender to complete this form on all delinquent loans every two months. The Agency uses this information to determine the lender’s compliance with the Lender’s Agreement in properly servicing delinquent accounts.

“Form to Assist in Assessment of USDA Compliance with Civil Rights Laws” (OMB No. 0503-0019). This form, which is voluntary, is used to collect information on an applicant’s race, ethnicity, and gender. Applicants who have provided this information to the Agency previously do not need to resubmit this form. (NOTE: There is no form number assigned to this form.)

GRANTS – RENEWABLE ENERGY SYSTEM FEASIBILITY STUDY GRANTS

REPORTING REQUIREMENTS – NO FORM NUMBERS

Reviews and appeals

The grantee may seek a review or may appeal any adverse Agency decision. Reviews and appeals are handled in accordance with 7 CFR Part 11.

System for Awards Management (SAM) and Dun and Bradstreet Data Universal Numbering System (DUNS)

Unless exempt under 2 CFR § 25.110, the grantee must be registered in the SAM prior to submitting an application or plan, maintain an active SAM registration with current information

PROPOSED RULE FOR REAP

at all times during which it has an active Federal award or an application or plan under consideration by the Agency, and provide its DUNS number in each application or plan it submits to the Agency. In addition, before the Grant Agreement can be executed, the grantee must report to the Agency the number and expiration date of the applicant's SAM number.

Applicant Requirements - Application

Applicants must submit an application narrative that contains the following elements:

1. Identification of the primary NAICS code applicable to the applicant's operation if known or a description of the operation in enough detail for the Agency to determine the primary NAICS code;
2. Certification that the applicant is a legal entity in good standing (as applicable), and operating in accordance with the laws of the state(s) where the applicant has a place of business.
3. The applicant must identify whether or not the applicant has a known relationship or association with an Agency employee. If there is a known relationship, the applicant must identify each Agency employee with whom the applicant has a known relationship.
4. A proposed scope of work, which includes:
 - a. A brief description of the proposed renewable energy system that the feasibility study will evaluate;
 - b. The timeframe for completion of the feasibility study;
 - c. The experience of the qualified consultant completing the feasibility study, including the number of similar feasibility studies the qualified consultant has performed, the number of years the qualified consultant has been performing a similar service, and corresponding resumes; and
 - d. The identification of the amount and source of matching funds the applicant is proposing to use for the proposed feasibility study and the amount of funds for which the applicant has received written commitments at the time the application is submitted. Applicants should also include documentation verifying the written commitment(s) that the applicant has received from its matching funding sources.
5. A certification that the applicant has not received any other Federal or State assistance for a feasibility study for the subject renewable energy system.
6. If the applicant is a rural small business, certification that the feasibility study grants will be for a renewable energy system project that is located in a rural area.

PROPOSED RULE FOR REAP

7. A certification providing:
 - a. For rural small businesses, the total annual receipts for and number of employees of the business and any parent, subsidiary or affiliates at other locations for rural small businesses or
 - b. For agriculture producers, the gross market value of the applicant's agricultural products, gross agricultural income of the applicant and gross nonfarm income of the applicant for the calendar year preceding the year in which the application is being submitted.

Grantee Requirements

Insurance

The following items would only be required if equipment is purchased. Property, liability and national flood insurance in accordance with 7 CFR part 1806, subpart B, and, except for projects with total eligible project costs of \$200,000 or less, business interruption insurance appropriate to the grantee's particular business and circumstances are required.

Evidence of Matching Funds

Either with the application or before obligation of funds, the applicant must provide written commitment of matching funds from each source.

Programmatic Changes

The grantee must obtain prior Agency approval for any change to the costs, scope, or contractor or vendor of the approved project. Failure to obtain prior approval of any such change could result in suspension, termination, and recovery of grant funds. Requests for changes must be submitted in writing to the Agency.

Transfer of Obligation

Prior to the construction of the project, the grantee may request in writing a transfer of obligation to a different (substitute) grantee. Subject to Agency approval provided in writing, an obligation of funds established for a grantee may be transferred to a substitute grantee under certain circumstances.

Transfer of Ownership

After the construction of the project, the grantee may request in writing a transfer of the grant agreement to another entity. Subject to Agency approval provided in writing, the grant agreement may be transferred to another entity under certain circumstances.

Disposition Instructions for Acquired Property

Grantees must abide by the disposition requirements outlined in Departmental regulations.

Project Performance Reports

Grantees will be required to submit a project performance report on a semiannual basis. The

PROPOSED RULE FOR REAP

report will compare actual accomplishments to objectives, provide explanations if objectives are not obtained, and outline ways to correct problem situations. It will also outline objectives and timetables for the next reporting period.

Final Project Performance

The final project development report must be submitted 90 days after project completion and include a detailed project funding and expense summary and a summary of the project's installation/construction process, including recommendations for development of similar projects by future applicants to the program.

Feasibility study – This is a final deliverable for the program. The feasibility study must include an evaluation of the market, financial, economic, technical, and management feasibility of the proposed project in accordance with Appendix D. This study must also include an opinion and a recommendation by the qualified consultant.

Outcome Project Performance Reports

Beginning the first full year after the feasibility study has been completed, grantees must report annually for 2 years on the following:

- (1) Is the renewable energy system project for which the feasibility study was conducted underway? If “yes,” describe how far along the renewable energy system project is (e.g., financing has been secured, site has been secured, construction contracts are in place, project is completed). If “no,” discuss why the renewable energy system project is not underway.
- (2) Is the renewable energy system project complete? If so, what is the actual amount of energy being produced?

Reporting Requirements – Forms Approved with this Docket

When awarded a renewable energy feasibility study grant, the grantee is required to submit the following form, which is discussed under the RES/EEI grant program:

- RD-4280-2, Rural Business Cooperative Service Grant Agreement.
- AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions."
- AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions."
- AD-1049, Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals.

Reporting Requirements - Forms Approved Under Other OMB Numbers

When applying for a renewable energy feasibility study grant, the applicant is required, except as noted, to submit the following forms, which are discussed under the RES/EEI grant program:

PROPOSED RULE FOR REAP

- SF-424, Application for Federal Assistance (OMB No. 4040-0004).
- SF-424C, Budget Information – Construction Programs (OMB No. 4040-0008) (as applicable).
- SF-424D, Assurances – Construction Programs” (OMB No. 4040-0009) (as applicable).
- RD-1940-20, Request for Environmental Information.
- Form to Assist in Assessment of USDA Compliance with Civil Rights Laws (voluntary)

When awarded a renewable energy feasibility study grant, the grantee is required to submit the following forms, which are discussed under the RES/EEI grant program:

- SF-LLL, Disclosure of Lobbying Activities (OMB No. 0348-0046).
- SF-425, Federal Financial Report (OMB No. 0348-0061).
- RD 1942-46, Letter of Intent to Meet Conditions.
- RD 1940-1, Request for Obligation of Funds.
- RD 400-4, Assurance Agreement

In addition, the applicant is required to submit the following forms, as applicable:

- SF-424A, Budget Information - Non-Construction Programs (OMB No. 4040-0006) (as applicable). This is the standard form completed by applicants to show the project's anticipated budget breakdown in terms of expense categories and division of Federal and non-Federal sources of funds. Identifying the project's requested funding by expense category is necessary to assure that the expense is necessary for successful conduct of the project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute or regulation.
- SF-424B, Assurances - Non-Construction Programs (OMB No. 4040-0007) (as applicable). This is the standard form completed by the applicant to provide the Federal government certain assurances of the applicant's legal authority to apply for Federal assistance and financial capability to pay the non-Federal share of project costs. The applicant also assures compliance with various legal and regulatory requirements as described in the form.

In addition, the grantee is required to submit the following form, as applicable:

- SF-270, “Request for Advance or Reimbursement” (OMB No. 0348-0004). This is the standard form used to request payment of funds under the grant. Grant funds will not be disbursed on more than a monthly basis.

PROPOSED RULE FOR REAP

GRANTS – EA and REDA

REPORTING REQUIREMENTS – NO FORM NUMBERS

Reviews and appeals

The grantee may appeal any adverse Agency decision. Appeals are handled in accordance with 7 CFR Part 11.

System for Awards Management (SAM) and Dun and Bradstreet Data Universal Numbering System (DUNS)

Unless exempt under 2 CFR § 25.110, the grantee must be registered in the SAM prior to submitting an application or plan, maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by the Agency, and provide its DUNS number in each application or plan it submits to the Agency.

Applicant Requirements

Applicants must submit an application narrative that contains the following elements:

1. Certification that the applicant is a legal entity in good standing (as applicable), and operating in accordance with the laws of the state(s) where the applicant has a place of business.
2. A proposed scope of work to include the following items:
 - a. A brief summary including a project title describing the proposed project;
 - b. Goals of the proposed project;
 - c. Geographic scope or service area of the proposed project and the method and rationale used to select the service area;
 - d. Identification of the specific needs for the service area and the target audience to be served. The number of agriculture producers and/or rural small businesses to be served should be identified including name and contact information if available as well as the method and rationale used to select the agriculture producers and/or rural small businesses;
 - e. Timeline describing the proposed tasks to be accomplished and the schedule for implementation of each task. Include whether organizational staff, consultants, or contractors will be used to perform each task. If a project is located in multiple states, resources must be sufficient to complete all projects;
 - f. Marketing strategies to include a discussion on how the applicant will be marketing and providing outreach activities to the proposed service area ensuring that agriculture producers and/or rural small businesses are served;
 - g. Applicant's experience as follows:
 - i. If applying for a renewable energy development assistance grant, the applicant's experience in completing similar renewable energy development

PROPOSED RULE FOR REAP

- assistance activities, including the number of similar projects the applicant has performed and the number of years the applicant has been performing a similar service.
- ii. If applying for an energy audit grant, the number of energy audits and assessments the applicant has completed and the number of years the applicant has been performing those services;
 - iii. For all applicants, the amount of experience in administering energy audit, renewable energy development assistance, or similar activities as applicable to the purpose of the proposed project. Provide discussion if the applicant has any existing programs that can demonstrate the achievement of energy savings or energy generation with the agricultural producers and/or rural small businesses the applicant has served. If the applicant has received one or more awards within the last 5 years in recognition of its renewable energy, energy savings, or energy-based technical assistance, please describe the achievement; and
- h. Identify the amount of matching funds and the source(s) the applicant is proposing to use for the project. Provide written commitments for matching funds at the time the application is submitted.
3. The applicant must identify whether or not the applicant has a known relationship or association with an Agency employee. If there is a known relationship, the applicant must identify each Agency employee with whom the applicant has a known relationship.

Grantee Requirements

Insurance

The grantee must provide satisfactory evidence to the Agency that all officers of grantee organization authorized to receive and/or disburse Federal funds are covered by such bonding and/or insurance requirements as are normally required by the grantee.

Evidence of Matching Funds

Either with the application or before obligation of funds, the applicant must provide written commitment of matching funds from each source.

Programmatic Changes

The grantee must obtain prior Agency approval for any change to the costs, scope, or contractor or vendor of the approved project. Failure to obtain prior approval of any such change could result in suspension, termination, and recovery of grant funds. Requests for changes must be submitted in writing to the Agency.

Transfer of Obligation

Prior to the construction of the project, the grantee may request in writing a transfer of obligation to a different (substitute) grantee. Subject to Agency approval provided in writing, an obligation

PROPOSED RULE FOR REAP

of funds established for a grantee may be transferred to a substitute grantee under certain circumstances.

Transfer of Ownership

After the construction of the project, the grantee may request in writing a transfer of the grant agreement to another entity. Subject to Agency approval provided in writing, the grant agreement may be transferred to another entity under certain circumstances.

Audit Requirement

For the years in which grant funds are received, the grantee will be required to submit an audit in accordance with 7 CFR part 3052.

Semiannual Project Performance Reports

Project performance reports shall include, but not be limited to, the following:

- a. A comparison of actual accomplishments to the objectives established for that period (e.g., the number of audits performed, number of recipients of renewable energy development assistance);
- b. A list of recipients, each recipient's location, and each recipient's North American Industry Classification System code;
- c. Problems, delays, or adverse conditions, if any, that have in the past or will in the future affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation;
- d. Objectives and timetable established for the next reporting period.

Final Project Performance

A final performance report will be required within 90 days after project completion and must include:

1. For energy audit projects, the final performance report must provide complete information regarding:
 - a. The number of audits conducted,
 - b. A list of recipients (agricultural producers and rural small businesses) with each recipient's North American Industry Classification System code,
 - c. The location of each recipient,
 - d. The cost of each audit, and
 - e. The expected energy saved for each audit conducted if the audit is implemented.
2. For renewable energy development assistance projects, the final performance report must provide complete information regarding:
 - a. A list of recipients with each recipient's North American Industry Classification System code,
 - b. The location of each recipient, and
 - c. The expected renewable energy that would be generated if the projects were implemented.

PROPOSED RULE FOR REAP

Outcome Project Performance Reports

One year after submittal of the final performance report, the grantee will provide the Agency a final status report on the number of projects that are proceeding with the grantee's recommendations, including the amount of energy saved and the amount of renewable energy generated, as applicable.

Reporting Requirements – Forms Approved with this Docket

When applying for an energy audit or renewable energy development assistance grant, the applicant is required to submit the following form, which is discussed under the RES/EEI grant program:

- RD-4280-2, Rural Business Cooperative Service Grant Agreement.
- AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions."
- AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions."
- AD-1049, Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals.

Reporting Requirements - Forms Approved Under Other OMB Numbers

When applying for a renewable energy feasibility study grant, the applicant is required, except as noted, to submit the following forms, which are discussed under either the RES/EEI grant program or the Feasibility Study grant program:

- SF-424, Application for Federal Assistance (OMB No. 4040-0004)
- SF-424A, Budget Information - Non-Construction Programs (OMB No. 4040-0006)
- SF-424B, Assurances - Non-Construction Programs (OMB No. 4040-0007)
- Form to Assist in Assessment of USDA Compliance with Civil Rights Laws (voluntary)

When awarded a renewable energy feasibility study grant, the grantee is required to submit the following forms, which are discussed under either the RES/EEI grant program or the Feasibility Study grant program:

- SF-270, Request for Advance or Reimbursement (OMB No. 0348-0004)
- SF-LLL, Disclosure of Lobbying Activities (OMB No. 0348-0046).
- SF-425, Federal Financial Report (OMB No. 0348-0061)
- RD 1942-46, Letter of Intent to Meet Conditions.
- RD 1940-1, Request for Obligation of Funds.

PROPOSED RULE FOR REAP

- RD 400-4, Assurance Agreement

RECORDKEEPING REQUIREMENTS

Applicable to all REAP grant programs, grantees are required to keep records in accordance with Department regulations. This includes, but is not limited to, records that identify adequately the source and application of funds for grant-supporting activities, together with documentation to support the records. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income. In addition, the grantee will retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after grant closing, except that the records shall be retained beyond the 3-year period if audit findings have not been resolved or if directed by the United States. Microfilm copies may be substituted in lieu of original records. The Agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcripts.

3. Describe any consideration of the use of improved information technology to reduce burden any technical or legal obstacles to reducing burden.

The Agency strongly encourages applicants to submit as much material as possible electronically using www.Grants.gov, which would allow the Agency to retrieve the applications electronically. Further, applicants who receive funding will be encouraged, but not required, to submit, as applicable, performance reports, the feasibility study, and the annual status reports electronically. However, the Agency will not totally require submission by electronic methods because some applicants may not have the technological expertise for electronic submission or may not have the equipment necessary for high technological information gathering.

4. Describe efforts to identify duplication.

The Agency is utilizing existing forms used in the current Rural Development grant and guaranteed loan programs, which includes the Rural Energy for America 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. In addition, only one application and set of forms and certifications is being requested. There will be no similar or existing information that could be submitted; therefore, there will be no duplication.

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

The information collection required for this initiative places little or nominal burden on small entities beyond that performed in normal business practice. The Agency is using industry-standardized data elements and documents, supplementing them with Government-wide forms

PROPOSED RULE FOR REAP

that are familiar to many applicants.

6. Describe the consequences to Federal program or policy activities if the collection were conducted less frequently.

The information collected under this program is the minimum necessary to conform to the requirements of the program regulations established by law. Information is collected when needed and cannot be collected less frequently and still meet the requirements of the programs. Failure to collect proper information could result in improper determinations of eligibility or improper use of funds.

7. Explain any special circumstances that require the collection of information to be conducted in a manner:
 - a. Requiring respondents to report information more than quarterly. There are no information requirements that require specific reporting on more than a quarterly basis.
 - b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it. There are no information requirements that require specific reporting in less than 30 days.
 - 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. Retention of financial records, supporting documents, statistical records pertinent to the grant is required for 3 years after final grant disbursement, except when an audit finds the grantee in violation of the grant terms and conditions.
 - 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). There are no such requirements.
 - 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.

PROPOSED RULE FOR REAP

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.

In accordance with the Paperwork Reduction Act of 1995, the Agency published a notice in the Federal Register on April 14, 2011, (76 FR 21110) combining RES/EEI grants and guaranteed loans, RES feasibility study grants, and EA/REDA grants into a single subpart, 7 CFR 4280, subpart B, to comprise the Rural Energy for America Program. The 60-day notice for comment is embedded in this notice. Comments were received on the notice and will be addressed in the final rule.

In addition, there is a 60-day comment period embedded in the notice for the proposed rule.

Lastly, the Agency sought comments on section 9007 and other title IX section in the 2008 Farm Bill from outside persons during a "listening conference," which was held on September 4, 2008. None of the commenters provided any comments related to the potential burden of implementing the energy audit and renewable energy development assistance grants or the renewable energy feasibility study grants.

In preparing this revised rule provisions for renewable energy systems and energy efficiency improvements, the Agency has relied on the experience obtained since 2005 to make the provisions for these parts of the Rural Energy for America Program more efficient and clearer to encourage participation from all eligible entities. This has been accomplished through interactions with Rural Development Energy Coordinators who have interacted with the public since 2005 and are knowledgeable of those areas where improvements in the implementation of the program can be achieved.

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, including no remuneration of contractors or grantees.

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

No assurance of confidentiality is provided to respondents for the information required. When necessary, the Agency will process any and all requests for release of records and information in accordance with the Privacy Act of 1974. However, in some instances, the information collected under the provisions of this program is not considered to be of a confidential nature. For example, organizations, such as not-for-profit entities and public bodies from which information is collected, are ordinarily required to make their activities available for public scrutiny.

PROPOSED RULE FOR REAP

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

The information collected does not contain any questions of a sensitive nature such as sexual behavior, religious beliefs, or other matters commonly considered private.

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

The following table summarizes the 3-year average estimated number of applicants, recipients, and costs for the proposed rule, broken down by the type of financial assistance. The attached spreadsheets provide the specific estimates for each of the financial assistance types.

Parameter	Financial Assistance Type				3-Yr Ave Totals
	RES/EEI Grants	RES/EEI GL	FS Grant	EA/REDA Grants	
Number of respondents	2,814	820 ^a	185	138	3,957 ^b
Total annual responses	51,545	12,611	2,433	888	67,477
Number of hours per response	4.4	1.5	3.5	4.3	3.8
Total hours	193,459	19,722	7,697	3,345	224,223
Cost per hour	\$35.72	\$35.72	\$35.72	\$35.72	\$35.72
Total annual cost	\$6,910,361	\$704,474	\$274,952	\$119,472	\$8,009,259

^a Of these 820 respondents, 805 are estimated to be combination respondents; that is, applying for both a RES/EEI grant and RES/EEI guaranteed loan. The remaining 15 respondents are “guaranteed only” respondents.

^b This total includes 2,814 grant respondents, 805 combination applicants, and 15 “guaranteed only” respondents as well as the 185 FS grant respondents and the 138 EA/REDA respondents.

13. Provide estimates of annualized cost to the respondents.

There are no capital and start-up costs or operations and 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 \$42 per hour. The estimated cost to the Government is estimated to be \$6,950,706. Administrative costs, which include the cost of promulgating the regulations, publication in the Federal Register, developing and printing the proposed forms, etc, are shown in the breakdown of cost for grants, but include

PROPOSED RULE FOR REAP

the Administrative costs for the entire REAP program.

The breakdown of cost to the Government is as follows:

RES & EEI Guaranteed Loans	Applicants or Borrowers	Hours	Rate	3- Year Average
Review application and lender's analysis and complete negotiations, site visit and environmental review	820	20	42	\$688,800
Review Technical Reports	15	4	42	\$2,520
Approve loan and obligate funds	559	8	42	\$187,824
Review documents and issue guarantee	559	6	42	\$140,868
Replacement of documents	1	3	42	\$126
Appeals	5	16	42	\$3,360
Financial statement review	559	3	42	\$70,434
Servicing actions	559	4	42	\$93,912
Borrower/lender visits	559	3	42	\$70,434
Outcome project performance	15	1	42	\$630
Total				\$1,258,908

Grants	Applicants or Grantees	Hours	Rate	3- Year Average
RES/EEI Application review – greater than \$200,000	366	20	42	\$307,440
RES/EEI Application review – \$200,000 to greater than \$80,000	1,375	15	42	\$866,250
RES/EEI Application review – \$80,000 and less	1,878	10	42	\$788,760
RES FS Application review	185	10	42	\$77,700
EA/REDA Application review	138			\$57,960
RES/EEI Technical merit review greater than \$200,000	366	8	42	\$122,976
RES/EEI Technical merit review – \$200,000 to greater than \$80,000	1,375	4	42	\$231,000
RES/EEI Technical merit review – \$80,000 and less	1,878	2	42	\$157,752
Approve and obligate funds	1,999	8	42	\$671,664
Servicing actions other than monitoring	41	4	42	\$6,888
Planning and Performance	533	16	42	\$358,176
Reporting and Grant Disbursement	1,999	16	42	\$1,343,328
Appeals	7	16	42	\$4,704
Administrative Costs				\$697,200
Total				\$5,691,798

PROPOSED RULE FOR REAP

15. Explain reasons for changes in burden, including the need for any increase.

This is a new information collection.

However, the proposed rule addresses provisions currently covered in three approved burden packages – (1) 0570-0050 for 7 CFR part 4280, subpart B; 0570-0059 for EA and REDA grants, and 0570-0061 for renewable energy feasibility study grants.

Compared to the combined burden in the three currently approved burden packages, the total number of respondents under the Proposed Rule is estimated to increase from 3,508 to 3,957. This increase is due to using more accurate numbers based upon number of obligations and applications on hand from the Agency's financial system.

The number of total responses is estimated to increase from 49,648 to 56,521. This net increase is due primarily to a more accurate accounting of the responses that will be required of all applicants and grantees, the increase in the number of respondents for EA/REDA grants, and the accounting of certain forms associated with RES/EEI guaranteed loans that had not been previously charged against the rulemaking.

The total hours to respond are estimated to decrease from 232,152 hours to 219,811 hours. The primary reason for this decrease are the proposed revisions associated with the RES and EEI grant application process for grants of \$80,000 or less, which creates a much lower burden for this set of applicants.

16. For collection of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, and publication.

The information collected will not be published for statistical use.

17. Approval not to display the expiration date for OMB approval.

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

18. Exceptions to certification statement.

There are no exceptions to the certification.

19. How is this information collection related of 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

PROPOSED RULE FOR REAP

(USDA) customers. One aspect is providing one stop service for greater customer convenience in accessing USDA programs. The applicant will be able to access the forms required except for the SF 424, which on the Grants.gov Web site.