

adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and address of those who comment, will be considered part of the public record on this proposal and will be available for public inspection

**Authority:** 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, section 21.

**Forrest Cole,**

*Forest Supervisor.*

[FR Doc. 04-10529 Filed 5-17-04; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### National Urban and Community Forestry Advisory Council

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Urban and Community Forestry Advisory Council will meet in Detroit, Michigan, June 24-26, 2004. The purpose of the meeting is to discuss emerging issues in urban and community forestry.

**DATES:** The meeting will be held June 24-26, 2004. A tour of local projects will be held June 24 from 9 a.m. to 4 p.m.

**ADDRESSES:** The meeting will be held at the Omni Detroit River Place Hotel, 1000 River Place, Detroit, Michigan. Individuals who wish to speak at the meeting or to propose agenda items must send their names and proposals to Suzanne M. del Villar, Executive Assistant, National Urban and Community Forestry Advisory Council, P.O. Box 1003, Sugarloaf, CA 92386-1003. Individuals may fax their names and proposed agenda items to (909) 585-9527.

**FOR FURTHER INFORMATION CONTACT:** Suzanne M. del Villar, Urban and Community Forestry Staff, (909) 585-9268.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Council discussion is limited to Forest Service staff and Council members; however, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before

or after the meeting. Public input sessions will be provided.

Dated: May 12, 2004.

**Robin L. Thompson,**

*Associate Deputy Chief, State and Private Forestry.*

[FR Doc. 04-11207 Filed 5-17-04; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

#### Notice of Funds Availability (NOFA) Inviting Applications for the Specific Risk Materials and Certain Cattle Renewable Energy Guaranteed Loan Pilot Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This NOFA announces an emergency Pilot Program (the "Pilot Program") to provide guaranteed loans for developing renewable energy systems from the use of diseased livestock as a process raw material for the energy source. This Pilot Program is a further action to support the Departmental efforts to address the risks associated with Bovine Spongiform Encephalopathy (BSE). The Rural Business-Cooperative Service (RBS) expects projects to be constructed that will produce energy through the destruction of cattle.

**DATES:** Applications must be completed and submitted to the appropriate USDA State Rural Development Office on August 16, 2004. Applications received after August 16, 2004, will not be considered. Comments regarding the information collection requirements under the Paperwork Reduction Act of 1995 must be submitted on or before July 19, 2004.

**ADDRESSES:** Applicants wishing to apply for a guaranteed loan under this Pilot Program must submit their application and one copy to the USDA State Rural Development Office where the proposed project is located or where the borrower is headquartered. A list of the Energy Coordinators and State Rural Development Office addresses and telephone numbers follow.

**Note:** Telephone numbers listed are not toll free.

#### USDA State Rural Development Offices

##### Alabama

Chris Harmon, USDA Rural Development, Sterling Center, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106-3683, (334) 279-3615.

##### Alaska

Dean Stewart, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645-6539, (907) 761-7722.

##### Arizona

Gary Mack, USDA Rural Development, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012-2906, (602) 280-8717.

##### Arkansas

Shirley Tucker, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201-3225, (501) 301-3280.

##### California

Charles Clendenin, USDA Rural Development, 430 G Street, Agency 4169, Davis, CA 95616-4169, (530) 792-5825.

##### Colorado

Linda Sundine, USDA Rural Development, 628 West 5th Street, Cortez, CO 81321, (720) 544-2929.

##### Delaware-Maryland

James Waters, USDA Rural Development, 4607 South Dupont Hwy., P.O. Box 400, Camden, DE 19934-0400, (302) 697-4324.

##### Florida/Virgin Islands

Joe Mueller, USDA Rural Development, 4440 NW. 25th Place, P.O. Box 147010, Gainesville, FL 32614-7010, (352) 338-3482.

##### Georgia

J. Craig Scroggs, USDA Rural Development, 333 Phillips Drive, McDonough, GA 30253, (678) 583-0866.

##### Hawaii

Tim O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waiuanuenue Avenue, Hilo, HI 96720, (808) 933-8313.

##### Idaho

Dale Lish, USDA Rural Development, 725 Jensen Grove Drive, Suite 1, Blackfoot, ID 83221, (208) 785-5840, Ext. 118.

##### Illinois

Cathy McNeal, USDA Rural Development, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403-6210.

##### Indiana

Jerry Hay, USDA Rural Development, North Vernon Area Office, 2600 Highway 7 North, North Vernon, IN 47265, (812) 346-3411, Ext. 4.

##### Iowa

Jeff Kuntz, USDA Rural Development, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309, (641) 932-3031.

##### Kansas

Larry Carnahan, USDA Rural Development, P.O. Box 437, 115 West 4th Street, Altamont, KS 67330, (620) 784-5431.

*Kentucky*

Dewayne Easter, USDA Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224-7435.

*Louisiana*

Kevin Boone, USDA Rural Development, 3727 Government Street, Alexandria, LA 71302, (318) 473-7960.

*Maine*

Valarie Flanders, USDA Rural Development, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402-0405, (207) 990-9168.

*Massachusetts/Rhode Island/Connecticut*

Sharon Colburn, USDA Rural Development, 451 West Street, Suite 2, Amherst, MA 01002-2999, (413) 253-4303.

*Michigan*

Lee Bambusch, USDA Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324-5257.

*Minnesota*

David Gaffaney, USDA Rural Development, 375 Jackson Street, Suite 410, St. Paul, MN 55101-1853, (651) 602-7814.

*Mississippi*

Charlie Joiner, USDA Rural Development, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269, (601) 965-5457.

*Missouri*

D Clark Thomas, USDA Rural Development, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876-0995.

*Montana*

John Guthmiller, USDA Rural Development, 900 Technology Blvd., Unit 1, Suite B, P.O. Box 850, Bozeman, MT 59771, (406) 585-2540.

*Nebraska*

Cliff Kumm, USDA Rural Development, 201 North, 25 Street, Beatrice, NE 68310, (402) 223-3125.

*Nevada*

Dan Johnson, USDA Rural Development, 555 West Silver Street, Suite 101, Elko, NV 89801, (775) 738-8468, Ext. 112.

*New Hampshire*

See Vermont.

*New Jersey*

Michael Kelsey, USDA Rural Development, 5th Floor North, Suite 500, 8000 Midlantic Drive, Mt. Laurel, NJ 08054, (856) 787-7700, Ext. 7751.

*New Mexico*

Eric Vigil, USDA Rural Development, 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109, (505) 761-4952.

*New York*

Scott Collins, USDA Rural Development, The Galleries of Syracuse, Suite 357, 441 South Salina Street, Syracuse, NY 13202-2541, (315) 477-6409.

*North Carolina*

H. Rossie Bullock, USDA Rural Development, P. O. Box 7426, Lumberton, NC 28359-7426, (910) 739-3349.

*North Dakota*

Dale Van Eckhout, USDA Rural Development, Federal Building, Room 208, 220 East Rosser Avenue, P.O. Box 1737, Bismarck, ND 58502-1737, (701) 530-2065.

*Ohio*

James Cogan, USDA Rural Development, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215-2418, (614) 255-2420.

*Oklahoma*

Jody Harris, USDA Rural Development, 100 USDA, Suite 108, Stillwater, OK 74074-2654, (405) 742-1036.

*Oregon*

Don Hollis, USDA Rural Development, 1229 SE Third Street, Suite A, Pendleton, OR 97801-4198, (541) 278-8049, Ext. 129.

*Pennsylvania*

Vincent Murphy, USDA Rural Development, One Credit Union Place, Suite 330, Harrisburg, PA 17110-2996, (717) 237-2181.

*Puerto Rico*

Virgilio Velez, USDA Rural Development, IBM Building, 654 Munoz Rivera Avenue, Suite 601, Hato Rey, PR 00918-6106, (787) 766-5091, ext. 251.

*South Carolina*

R. Gregg White, USDA Rural Development, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765-5881.

*South Dakota*

Gary Korzan, USDA Rural Development, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350, (605) 352-1142.

*Tennessee*

Dan Beasley, USDA Rural Development, 3322 West End Avenue, Suite 300, Nashville, TN 37203-1084, (615) 783-1341.

*Texas*

Pat Liles, USDA Rural Development, Federal Building, Suite 102, 101 South Main Street, Temple, TX 76501, (254) 742-9780.

*Utah*

Richard Carrig, USDA Rural Development, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138, (801) 524-4328.

*Vermont/New Hampshire*

Lyn Millhiser, USDA Rural Development, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828-6069.

*Virginia*

Laurette Tucker, USDA Rural Development, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287-1594.

*Washington*

Chris Cassidy, USDA Rural Development, 1606 Perry Street, Suite E, Yakima, WA 98902-5769, (509) 454-5743, Ext. 5.

*West Virginia*

Cheryl Wolfe, USDA Rural Development, 75 High Street, Room 320, Morgantown, WV 26505-7500, (304) 284-4882.

*Wisconsin*

Mark Brodziski, USDA Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345-7615, Ext. 131.

*Wyoming*

Jerry Tamlin, USDA Rural Development, 100 East B, Federal Building, Room 1005, P.O. Box 820, Casper, WY 82602, (307) 261-6319.

**FOR FURTHER INFORMATION CONTACT:**

Diane Berger, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, Mail Stop 3225, 1400 Independence Ave., SW., Washington, DC 20250-3225, Telephone: (202) 720-1400.

**SUPPLEMENTARY INFORMATION:****Programs Affected**

The Renewable Energy Program is listed in the Catalog of Federal Domestic Assistance under Number 10.775, Renewable Energy Systems and Energy Efficiency Improvements Program and 10.768, Business and Industry Loans.

**Paperwork Reduction Act**

The collection of information requirements contained in this notice has received temporary emergency clearance by the Office of Management and Budget (OMB) under Control Number 0570-0049. However, in accordance with the Paperwork Reduction Act of 1995, RBS will seek standard OMB approval of the reporting and recordkeeping requirements contained in this notice and hereby opens a 60-day comment period.

**Abstract**

The information requirements contained in this notice require information from guaranteed loan applicants and recipients. The information is vital for RBS to make wise decisions regarding the eligibility of applicants, establish selection priorities among competing applicants, ensure compliance with applicable RBS regulations, and effectively monitor the borrowers' activities to protect the Government's financial interest and ensure that funds obtained from the Government are used appropriately.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 8 hours per response.

*Respondents:* Rural small businesses.

*Estimated Number of Respondents:* 25.

*Estimated Number of Responses per Respondent:* 14.

*Estimated Number of Responses:* 342.

*Estimated Total Annual Burden on Respondents:* 2,678.

*Type of Request:* New collection.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Burden at (202) 692-0043.

### Comments

Comments are invited on (1) whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (2) the accuracy of the new RBS estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

### Background

Bovine spongiform encephalopathy (BSE), commonly referred to as "mad cow" disease, is a slowly progressive, degenerative, fatal disease affecting the central nervous system of adult cattle. Between November 1986 and September 2002, approximately 181,000 cases of BSE were confirmed in the United Kingdom. Since 1989, when the first case was reported outside the UK, cases have appeared in other European countries, Israel, Japan, and Canada, but in relatively small numbers. In the United States, the Agency has conducted, since 1990, aggressive surveillance of the highest risk cattle going to slaughter, in which 10,000 to 20,000 animals per year have been tested. To date, only one cow, in December 2003, has been found to be infected with BSE. This cow was bought from a farm in Canada.

Since finding that cow, USDA has conducted 189 epidemiological investigations, leading to complete herd inventories on 51 premises in three States "Washington, Oregon, and Idaho. The inventories involved examining more than 75,000 animals, out of which 255 were identified as "animals of interest" because they were or could have been from the same herd as the cow found with BSE. None of these 255 animals were found to have BSE.

BSE is a member of a family of transmissible spongiform encephalopathy (TSE). The agent that causes BSE and other TSEs has yet to be fully characterized. The theory that is most accepted in the scientific community is that the agent is a prion, which is an abnormal form of a normal protein known as cellular prion protein, although other types of agents have also been implicated. The agent is highly resistant to heat, ultraviolet light, ionizing radiation, and common disinfectants that normally inactivate viruses or bacteria. In humans, the most common form of TSE is Creutzfeldt-Jakob disease (CJD). While CJD is rare with a worldwide incidence of 1 case per million, humans who develop this disease slowly lose the ability to think and move properly and suffer from memory loss and progressive brain damage until they can no longer see, speak, or feed themselves.

In 1996, a variant of CJD (vCJD) was first described. While similar to CJD, there are distinct differences. vCJD affects young people, with an average age of death under 30 years and it has a relatively longer duration of illness. In addition, vCJD is strongly linked to exposure, probably through food, to BSE, whereas other human TSEs have not been linked to food exposure. While the route of transmission of vCJD is not yet fully determined, it is generally accepted that it is transmitted through exposure to food contaminated with BSE.

Even though no subsequent animals have yet to be found to have BSE in the United States, as a result of identifying the BSE-contaminated cow in the United States in December 2003, the Secretary of Agriculture made a commitment that specified risk materials associated with BSE and non-ambulatory cattle would not be allowed to enter the food supply. In an extensive study conducted by the UK as the result of the BSE outbreak there, traditional rendering processes were determined not to effectively deactivate the infectivity of prions (The BSE Inquiry: The Report, Volume 13, Industry Processes and Controls, 6. Rendering, paragraphs 6.46 and 6.47). In response

to this situation, the Secretary of Agriculture required existing USDA programs to be reviewed to determine which program might facilitate the development of private sector solution to this disposal problem.

Title 9006 of the Farm Security and Rural Investment Act of 2002 (2002 Act) was authorized to allow grant making and the issuance of direct and guaranteed loans to fund the development of renewable energy sources or energy efficiency opportunities. It is understood that cattle carcasses and parts of cattle can be a source of energy. In order to support the Departmental efforts to address the BSE situation, the Agency has determined that it is appropriate to develop this Pilot Program to guarantee loans to rural small businesses which may provide the means to effectively destroy specified risk materials that have been associated with BSE and cattle, while providing a bio-based source of energy. Funding for this Pilot Program is only anticipated to be available for the 2004 fiscal year.

In addition to this notice, the Agency is also developing a proposed rule to create a program under the 2002 Act to make loans, loan guarantees, and grants to "a farmer, rancher, or rural small business" to purchase renewable energy systems and make energy efficiency improvements. The purpose of the program will be to help agricultural producers and rural small businesses to reduce energy costs and consumption. Lastly, the Agency is also concurrently developing a Notice of Availability of Funds to provide grants to these same constituents for renewable energy systems and energy efficiency improvements. These programs together provide an opportunity to develop renewable energy systems using a variety of renewable energy resources and, in the case of this notice, specified risk materials from non-ambulatory cattle, and other cattle that are deemed to be at risk of carrying BSE.

Because the Agency is developing these programs concurrently, we will be seeking comments on these programs as they are published. The order in which each of these programs will be published in the **Federal Register** is uncertain. Because of the obvious common characteristics in all of these programs, it is the Agency's intent to use relevant comments to help shape, as appropriate and if possible (depending on the actual timeframes), each of these programs.

### Guaranteed Loan Funding

Based on the 2002 Act, the amount of guaranteed loan funds that may be made

available to an applicant for an eligible project will not exceed 50 percent of eligible project costs. Because of the serious risks and economic impacts of this situation, the Agency is seeking to maximize participation in this Pilot Program. To do this, the Agency is setting the maximum loan guarantee at 80 percent, regardless of loan size. The interest rate for guaranteed loans under this Pilot Program will be based on indices, such as money market indices, that are published in a recognized banking industry source and negotiated between the lender and the borrower. Interest rates will not be more than those rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to Agency review and approval. Except as provided in this notice, the loan terms are the same as those in the RBS Business and Industry Guaranteed Loan program.

The Agency is limiting the maximum amount of total loan guarantees under the Pilot Program to \$50 million. The Agency anticipates up to 3 awards will be made, although it is also possible that no applicants will qualify for loans guaranteed through this program. There is no size restriction associated with any one award (other than no more than \$50 million in total loan guarantees will be made). Funds may be used only for certain specified project costs, provided these costs are an integral and necessary part of the total project.

### **I. Eligibility Requirements for Guarantee Assistance**

To be eligible to receive a guaranteed loan under this Pilot Program, a borrower must meet certain criteria including, but not limited to, each of the following three criteria, as applicable, which are identified in Section 9006 of the 2002 Act.

A. The borrower must be a rural small business;

B. Entities must be at least 51 percent owned, directly or indirectly, by individuals who are either citizens of the U.S. or reside in the U.S. after being legally admitted for permanent residence; and

C. Both the borrower's business headquarters and the proposed project must be in a rural area.

### **II. Additional Eligibility Requirements Required From Lender**

To be eligible, the proposed project must meet certain criteria including, but not limited to, the following criteria:

A. Demonstrate the ability to control the dissemination of any materials that may contain prions;

B. The primary biomass used in the project must be specified risk materials, non-ambulatory cattle, or other cattle deemed to be at risk of carrying BSE;

C. The ability to produce energy from the destruction of cattle and specified risk material;

D. The technology must be pre-commercial or commercially available and replicable; and

E. The project must be financially and technically feasible.

Projects that are still in the research and development stage are not eligible for funds, because the Agency has determined that this emergency situation requires technologies that are available now.

The technical feasibility of each proposed project will be based on all of the information provided by the applicant and on other sources of information, such as recognized industry experts in the applicable technology field, as necessary. Projects determined by the Agency to be not financially or technically feasible are ineligible.

### **III. Applications**

The lender must provide essentially the same application information, including forms, certifications, and agreements, as required for the B&I program. Other information also required from the lender includes:

A. A description of borrower eligibility and project eligibility;

B. A description of the business and ownership;

C. Management information; and

D. The lender must also provide information on the availability of materials, labor, and equipment for the facility.

Because of factors of cost and complexity for renewable energy system projects of more than \$100,000, the lender must include a project-specific feasibility study prepared by a qualified independent consultant will be required. This feasibility study must be consistent with the terms for such feasibility studies identified in the B&I program.

A technical requirements report is also being required from the lender. The purpose of the technical requirements report is to ensure that the renewable energy system operates or performs as expected over its design life in a reliable and cost effective manner with regard to both energy production and the destruction of specified risk materials and of certain cattle and the control of material that may contain prions. To this end, the lender must provide information on project design, procurement, startup, operation, and

maintenance. The type of information to be provided includes the qualifications of the project team, agreements and permits, resource assessment, preliminary design and engineering, project development schedules, economic/feasibility modeling, equipment procurement, equipment installation, operations and maintenance, and project decommissioning. Projects costing more than \$100,000 are required to employ the services of a professional engineer.

The time available to obligate funds this current fiscal year is very short and there is insufficient time for resubmission of additional information. Therefore, it is imperative that applicants submit complete applications and that the applications be received by August 16, 2004. Ineligible or incomplete applications and those received after August 16, 2004, will be returned to the applicant and not evaluated further. The denial or rejection of an application under the Pilot Program may be appealed as provided in section 4279.16.

### **IV. Evaluation of Applications**

Submission of an application neither reserves funding nor ensures funding. The Agency will evaluate each application and make a determination as to whether the borrower is eligible, whether the lender is eligible, whether the proposed project is eligible, and whether the proposed funding request complies with all applicable statutes and regulations. The evaluation will be based on the information provided by the lender and on other sources of information, such as recognized industry experts in the applicable technology field, as necessary.

The Agency will score each application in order to prioritize each proposed project. The evaluation criteria that the Agency will use to score these projects are different from those in the B&I program and are based, for the most part, on requirements found in the 2002 Act. The scoring criteria are:

A. Quantity of Energy Produced. Points are earned for the amount of energy replaced or the amount of energy generated, not both. A maximum of 20 points will be awarded. Energy replacement is based on the percentage of energy being replaced. Energy generation is based on the proposed amount of renewable saleable energy the system is intended to produce.

B. Environmental Benefits. Ten (10) points will be awarded if the purpose of the proposed project is to upgrade an existing facility or construct a new facility to meet applicable health or sanitary standards.

C. Commercial Availability. Ten (10) points will be awarded if the technology being used is commercially available and replicable.

D. Cost Effectiveness. A maximum of 25 points will be awarded based on the return on investment of the proposed project.

E. Matching Funds. A maximum of 15 points will be awarded based on the percentage of matching funds provided by the borrower.

F. Management. Ten (10) points will be awarded if the proposed project is monitored and managed by a qualified third party.

G. Loan Rate. A maximum of 10 points will be awarded depending on the final loan rate.

H. Mobility. Ten (10) points will be awarded if the project is able to be moved to handle outbreaks in varying geographical areas.

## V. Applicability of Current Regulations

All guaranteed loan requests for this Pilot Program are subject to the provisions of this NOFA. In addition, guaranteed loan requests are subject to the requirements of 7 CFR part 4279, subparts A and B, and 7 CFR part 4287, subpart B, with the following modifications:

### A. Definitions

In addition to the definitions in § 4279.2, the following definitions are applicable and, for the purposes of this notice, the definition of negligent servicing has been expanded as shown below.

*Annual receipts.* The total income or gross income (sole proprietorship) plus cost of goods sold.

*Biogas.* Biomass converted to gaseous fuels.

*Biomass.* For the purposes of this notice, biomass means organic material the primary constituent of which is specified risk materials, non-ambulatory cattle, and other cattle deemed to be at risk of carrying BSE.

*Capacity.* The load that a power generation unit or other electrical apparatus or heating unit is rated by the manufacturer to be able to meet or supply.

*Commercially available.* Systems that have a proven operating history and an established design, installation, equipment, and service industry.

*Interconnection agreement.* The terms and conditions governing the interconnection and parallel operation of the borrower's electric generation equipment and the utility's electric power system.

*Negligent servicing.* The failure to perform those services which a

reasonable, prudent lender would perform in servicing (including liquidation of) its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act, but also not acting in a timely manner, or acting in a manner contrary to the manner in which a reasonable, prudent lender would act. Negligent servicing includes any instance where a lender fails to ensure that all environmental laws are being complied with by an operation receiving guaranteed loan funds under this Pilot Program.

*Non-ambulatory disabled cattle.* Non-ambulatory disabled cattle are cattle that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column, or metabolic conditions.

*Other waste materials.* Inorganic or organic materials that are used as inputs for energy production or are by-products of the energy production process.

*Power purchase arrangement.* The terms and conditions governing the sale and transportation of electricity produced by the borrower to another party.

*Pre-commercial technology.* Technologies that have emerged through the research and development process and have technical and economic potential for application in commercial energy markets but are not yet commercially available.

*Renewable energy system.* A process that produces energy from a renewable energy source.

*Small business.* A private entity including a sole proprietorship, partnership, corporation, and a cooperative (including a cooperative qualified under section 501(c)(12) of the Internal Revenue Code) but excluding any private entity formed solely for a charitable purpose, and which private entity is considered a small business concern in accordance with the Small Business Administration's (SBA) Small Business Size Standards by North American Industry Classification System (NAICS) Industry found in 13 CFR part 121; provided the entity has 500 or fewer employees and \$20 million or less in total annual receipts including all parent, affiliate, or subsidiary entities at other locations.

*Specified Risk Material.* Parts of cattle that have been determined by the Food Safety Inspection Service to be at risk of harboring potential infectivity of BSE. 9 CFR 310.22(a).

### B. Eligible Lenders

Section 4279.29 applies with the exception of paragraph (b).

### C. Certified Lender Program

Section 4279.43 is not applicable.

### D. Civil Rights Impact Analysis

Section 4279.60 applies with the addition of Executive Order 12898, Environmental Justice. When guaranteed loans are proposed, RBS employees will conduct a Civil Rights Impact Analysis (CIRA) with regard to environmental justice. The CIRA must be conducted and the analysis documented utilizing Form RD 2006-38. This must be done prior to loan approval, obligation of funds, or other commitments of agency resources, including issuance of a Conditional Commitment of guarantee, whichever occurs first.

### E. Public Bodies and Nonprofit Corporations

Section 4279.71 is not applicable.

### F. Sale or Assignment of Guaranteed Loan

Section 4279.75 applies with the exception of paragraph (b).

### G. Guarantee Fee

(a) For guaranteed loans under the Pilot Program, the guarantee fee is 1 percent instead of 2 percent.

(b) Paragraphs 4279.107(a) and (b) are not applicable.

### H. Eligible Borrowers

(a) Section 4279.108 applies with the exception of paragraph (a).

(b) In addition to the requirements in § 4279.108(b), the following requirements will also be used to determine borrower eligibility:

(i) The borrower must be a rural small business.

(ii) If the borrower, or an owner, has an outstanding judgment obtained by the United States in a Federal Court (other than in the United States Tax Court), is delinquent in the payment of Federal income taxes, or is delinquent on a Federal debt, the borrower is not eligible to receive a guaranteed loan until the judgment is paid in full or otherwise satisfied or the delinquency is resolved.

### I. Eligible Loan Purposes

The loan purposes identified in § 4279.113 are not applicable to this Pilot Program. Instead, for a project to be eligible to receive a guaranteed loan under this Pilot Program, the proposed project must meet each of the following criteria, as applicable.

(a) The project must destroy or otherwise deactivate prions.

(b) The primary biomass used in the project must be specified risk materials, non-ambulatory cattle, and other cattle deemed to be at risk of carrying BSE.

(c) The project must produce energy.

(d) The technology used in the project must be pre-commercial or commercially available and replicable.

(e) The project must be technically and economically feasible.

(f) The project must be located in a rural area.

(g) The borrower must be the owner of the system and control the operation and maintenance of the proposed project. A qualified third-party operator may be used to manage the operation and/or maintenance of the proposed project.

(h) All projects financed under this Pilot Program must be based on satisfactory sources of revenues in an amount sufficient to provide for the operation and maintenance of the system or project.

(i) No conflict of interest or appearance of conflict of interest will be allowed. For purposes of this Pilot Program, a conflict of interest includes, but is not limited to, the distribution or payment to an individual owner, partner, stockholder, or beneficiary of the borrower or a close relative of such an individual when such individual will retain any portion of the ownership of the borrower.

#### J. Ineligible Purposes

Section 4279.114 is not applicable.

#### K. Loan Guarantee Limits

(a) The requirements in § 4279.119(a) are not applicable. Instead, the amount of guaranteed loan funds that will be made available to an eligible project under this Pilot Program will not exceed 50 percent of eligible project costs. Eligible project costs are only those costs associated with the items listed in paragraphs (1) through (10) below, as long as the items are an integral and necessary part of the total project.

(1) Post-application purchase and installation of equipment, except agricultural tillage equipment and vehicles;

(2) Post-application construction or project improvements, except residential;

(3) Permit fees;

(4) Professional service fees, except for application preparation;

(5) Feasibility studies;

(6) Business plans;

(7) Retrofitting;

(8) Construction of a new facility only when the facility is used for the same

purpose and is approximately the same size;

(9) Working capital; and

(10) Land acquisition.

(b) The maximum percentages of guarantee and the loan values in § 4279.119(b) are not applicable. Instead, the maximum percentage guarantee for loans under this Pilot Program is 80 percent for any size loan.

(c) The requirements in § 4279.119(b)(1) through (4) are not applicable.

(c) The requirements in § 4279.119(b)(1) through (4) are not applicable.

#### L. Appraisals

In complying with the appraisal requirements in § 4279.144, lenders shall use specialized appraisers. The Agency may waive the requirement to use a specialized appraiser only if a specialized appraiser does not exist in a specific industry or hiring one would cause an undue financial burden to the borrower.

#### M. Feasibility Studies

Each application under this Pilot Program must include a project-specific feasibility study as specified in § 4279.150.

#### N. Loan Priorities

The requirements in § 4279.155 are not applicable. Instead, Agency personnel will score and fund each application based on the evaluation criteria identified below. These criteria must be individually addressed in narrative form on a separate sheet of paper.

(a) *Quantity of energy produced.* Points may only be awarded for either energy replacement or energy generation, but not for both.

(1) *Energy replacement.* If the proposed renewable energy system is intended primarily for self use by the rural small business and will provide energy replacement of greater than 75 percent, 20 points will be awarded; greater than 50 percent, but equal to or less than 75 percent, 15 points will be awarded; or greater than 25 percent, but equal to or less than 50 percent, 10 points will be awarded. The energy replacement should be determined by dividing the estimated quantity of energy to be generated by at least the past 12 months' energy profile of the small business or anticipated energy use. The estimated quantity of energy may be described in Btu's, kilowatts, or similar energy equivalents. Energy profiles can be obtained from the utility company;

(2) *Energy generation.* If the proposed renewable energy system is intended primarily for production of energy for sale, 20 points will be awarded;

(b) *Environmental benefits.* If the purpose of the proposed renewable energy system is to upgrade an existing facility or construct a new facility required to meet applicable health or sanitary standards, 10 points will be awarded. Documentation must be obtained by the applicant from the appropriate regulatory agency with jurisdiction to establish the standard, to verify that a bona fide standard exists, what that standard is, and that the proposed project is needed and required to meet the standard;

(c) *Commercial availability.* If the renewable energy system is currently commercially available and replicable, an additional 10 points will be awarded;

(d) *Cost effectiveness.* If the proposed renewable energy system will return the cost of the investment in 5 years or less, 25 points will be awarded; up to 10 years, 20 points will be awarded; up to 15 years, 15 points will be awarded; or up to 20 years, 10 points will be awarded. The estimated return on investment is calculated by dividing the total project cost by the estimated projected net annual income and/or energy savings of the renewable energy system;

(e) *Matching funds.* If the rural small business has provided eligible matching funds of over 90 percent, 15 points will be awarded; 85–90 percent, 10 points will be awarded; or at least 80 and up to but not including 84 percent, 5 points will be awarded;

(f) *Management.* If the renewable energy system will be monitored and managed by a qualified third-party operator, such as pursuant to a service contract, maintenance contract, or remote telemetry, an additional 10 points will be awarded; and

(g) *Loan rate.* If the rate of the loan is below the Prime Rate (as published in The Wall Street Journal) plus 1.75 percent (5 points). If the rate of the loan is below the Prime Rate (as published in The Wall Street Journal) plus 1 percent (an additional 5 points).

(h) *Mobility.* If the projects have the capability to relocate to various geographical areas to handle outbreaks, 10 points will be awarded.

#### O. Filing Preapplications and Applications

(a) *Preapplications.* Section 4279.161(a) is not applicable.

(b) *Applications.* The requirements in § 4279.161(b) are applicable except for § 4279.161(b)(2), (b)(14), and (b)(15). In addition, the following requirements also apply to all applications under this Pilot Program.

(1) *Application.* Two applications (one original and one copy), including

the technical requirements report, shall be submitted for each proposed project. The original and one copy shall be submitted to the USDA State Rural Development Office where the proposed project is located or where the borrower is headquartered.

(i) *Table of Contents.* The first item in each application will be a detailed Table of Contents in the order presented below. Include page numbers for each component of the proposal. Begin pagination immediately following the Table of Contents.

(ii) *Project Summary.* A summary of the project proposal, not to exceed one page, must include the following: Title of the project, description of the project including goals and tasks to be accomplished, names of the individuals responsible for conducting and completing the tasks, and the expected timeframes for completing all tasks, including an operational date.

(iii) *Eligibility.* Each applicant must describe how the borrower meets the borrower eligibility requirements.

(iv) *Small business information.* All applications must contain the following information on the small business seeking funds under this program:

(A) Business operation.

(1) A description of the ownership, including a list of individuals and/or entities with ownership interest, names of any corporate parents, affiliates, and subsidiaries, as well as a description of the relationship, including products, between these entities.

(2) A description of the operation.

(B) Management. The resumes of key managers focusing on relevant business experience. If a third-party operator is used to monitor and manage the project, provide a discussion on the benefits and burdens of such monitoring and management as well as the qualifications of the third party.

(C) Financial Information.

(1) A current balance sheet and income statement prepared in accordance with generally accepted accounting principles (GAAP) and dated within 90 days of the application. Financial information is required on the total operations of the small business and its parent, subsidiary, or affiliates at other locations.

(2) Sufficient information to determine total annual receipts of the business and any parent, subsidiary, or affiliates at other locations. Information provided must be sufficient for the Agency to make a determination of total income and cost of goods sold by the business.

(3) If available, historical financial statements prepared in accordance with

GAAP for the past 3 years, including income statements and balance sheets

(4) Pro forma balance sheet at startup of the small business' business that reflects the use of the loan proceeds; 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.

(D) Production information.

(1) Provide a statement as to whether the technology to be employed by the facility is commercially or pre-commercially available and replicable. Provide information to support this position.

(2) Describe the availability of materials, labor, and equipment for the facility.

(v) *Appraisals.* In addition to the requirements specified in § 4279.161(b)(6), if the appraisal has not been completed when the application is filed, the applicant must submit an estimated appraisal. In all cases, a completed appraisal must be submitted prior to the loan being closed.

(vi) In addition to the requirements specified in § 4279.161(b)(11), allow the Agency access to the project and its performance information during its useful life and permit periodic inspection of the project by a representative of the Agency.

(vii) A certification by the lender that the proposed project will be in compliance with all applicable State environmental laws and regulations.

(viii) A Dun and Bradstreet Universal Numbering System (DUNS) number.

(c) *Technical requirements report.* The technical report must demonstrate that the project design, procurement, installation, startup, operation and maintenance of the renewable energy system will operate or perform as specified with regard to the destruction of specified risk materials, non-ambulatory cattle, and other cattle deemed to be a risk of carrying BSE and the control of the dissemination of prions over its design life in a reliable and a cost effective manner. The technical report must also identify all necessary project agreements, demonstrate that those agreements will be in place, and that necessary project equipment and services are available over the design life.

All technical information provided must follow the format specified in paragraphs (1) through (10) below and must address both the destruction of specified risk materials, non-ambulatory cattle, and other cattle deemed to be a risk of carrying BSE and the control of

the dissemination of prions and the production of energy from such inputs. Supporting information may be submitted in other formats. Design drawings and process flow charts are encouraged as exhibits. A discussion of each topic identified in paragraphs (1) through (10) is not necessary if the topic is not applicable to the specific project. Questions identified in the Agency's technical review of the project must be answered to the Agency's satisfaction before the application will be approved. Projects costing more than \$100,000 require the services of a professional engineer (PE). Depending on the level of engineering required for the specific project or if necessary to ensure public safety, the services of a PE may be required for smaller projects.

(1) *Qualifications of project team.* The biomass project team will vary according to the complexity and scale of the project. For engineered systems, the project team should consist of a system designer, a project manager, an equipment supplier, a project engineer, a construction contractor or system installer, and a system operator and maintainer. One individual or entity may serve more than one role.

The project team must have demonstrated expertise in similar biomass systems development (e.g., destruction of diseased animal carcasses), engineering, installation, and maintenance. The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services for both the destruction or deactivation of prions and the production of energy. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The application must:

(i) Discuss the proposed project delivery method. Such methods include a design, bid, build where a separate engineering firm may design the project and prepare a request for bids and the successful bidder constructs the project at the applicant's risk, and a design build method, often referred to as turn key, where the applicant establishes the specifications for the project and secures the services of a developer who will design and build the project at the developer's risk;

(ii) Discuss the biomass system equipment manufacturers of major components being considered in terms of the length of time in business and the number of units installed at the capacity and scale being considered;



(iii) Discuss the project manager, equipment supplier, system designer, project engineer, and construction contractor qualifications for engineering, designing, and installing biomass energy systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available; and

(iv) Describe the system operator's qualifications and experience for servicing, operating, and maintaining biomass renewable energy equipment or projects. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available.

(2) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (2)(i) through (vii).

(i) Biomass systems must be installed in accordance with applicable local, State, and national codes and regulations. Identify zoning and code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(ii) Identify licenses where required and the schedule for obtaining those licenses.

(iii) Identify land use agreements required for the project and the schedule for securing the agreements and the term of those agreements.

(iv) Identify any permits or agreements required for solid, liquid, and gaseous emissions or effluents and the schedule for securing those permits and agreements.

(v) Identify available component warranties for the specific project location and size.

(vi) Systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements. This is required even if the system is installed on the customer side of the utility meter. For systems planning to utilize a local net metering program, describe the applicable local net metering program.

(vii) Identify all environmental issues, including environmental compliance issues, associated with the project.

(3) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability

of the biomass resource required for the system to operate as designed. Indicate the type and quantity of the biomass resource including storage, where applicable. Where applicable, also indicate shipping or receiving method and required infrastructure for shipping. For proposed projects with an established resource, provide a summary of the resource.

(4) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purposes (destruction or deactivation of prions and production of energy), will ensure public safety, and will comply with applicable laws, regulations, agreements, permits, codes, and standards. Projects shall be engineered by a qualified entity. Systems must be engineered as a complete, integrated system with matched components. The engineering must be comprehensive including site selection, system and component selection, and system monitoring equipment. Systems must be constructed by a qualified entity.

(i) The application must include a concise but complete description of the project including location of the project; resource characteristics, including the kind and amount of biomass inputs; system specifications; electric power system interconnection, if applicable; kind, amount, and quality of the energy output; method to be used to destroy or otherwise deactivate prions; and monitoring equipment. Identify possible vendors and models of major system components. Describe the expected electric power, fuel production, or thermal energy production of the proposed system as rated and as expected in actual field conditions. For systems with a capacity more than 10 tons per day of biomass, address performance on a monthly and annual basis. For small projects such as a commercial biomass furnace or pelletizer of up to 5 tons daily capacity, proven, commercially available devices need not be addressed in detail. Describe the uses of or the market for electricity, heat, or fuel produced by the system. Discuss the impact of reduced or interrupted biomass availability on the system process, including any effect on the destruction or deactivation of prions.

(ii) The application must include a description of the project site and address issues such as site access, foundations, backup equipment when applicable, and environmental concerns with emphasis on visibility, odor, noise, construction, and installation issues.

Identify any unique construction and installation issues.

(iii) Sites must be controlled by the small business for the proposed project life or for the financing term of any associated federal loans or loan guarantees.

(iv) Where incinerators are used, they must conform to all EPA standards for incinerators or, in the case of State's with EPA-approved emissions guidelines, the applicable State incinerator and ambient air quality rules.

(5) *Project development schedule.* The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including resource assessment, system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(6) *Financial feasibility.* The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including project management, resource assessment, project design, project permitting, land agreements, equipment, site preparation, system installation, startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed analysis and description of annual project revenues and expenses. Provide a detailed description of applicable investment incentives, productivity incentives, loans, and grants.

(7) *Equipment procurement.* The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Biomass systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory.

(8) *Equipment installation.* The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment needed for project construction, and provide a description of the startup and



shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(9) *Operations and maintenance.* The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(i) Provide information regarding available system and component warranties and availability of spare parts;

(ii) For systems having a biomass input capacity exceeding 10 tons of biomass per day,

(A) Describe the routine operations and maintenance requirements of the proposed system, including maintenance schedule for the mechanical, piping, and electrical systems and system monitoring and control requirements. Provide information that supports expected design life of the system and timing of major component replacement or rebuilds; and

(B) Discuss the costs and labor associated with operations and maintenance of system and plans for in or outsourcing. Describe opportunities for technology transfer for long term project operations and maintenance by a local entity or owner/operator; and

(C) Provide and discuss the risk management plan for handling large, unanticipated failures or major components. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for in-sourcing or outsourcing.

(10) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, requirements, and costs for removal and disposal of the system.

#### *P. Evaluation of Application*

In addition to the requirements specified in § 4279.165(a), the Agency will determine a project's technical feasibility, including its ability to destroy or deactivate prions and produce a source of energy, based on the information provided by the applicant and on other sources of information, such as recognized industry experts in the applicable technology field, as necessary, to determine technical feasibility of the proposed project. The environmental procedures, including the emergency procedures described in § 1940.332(b), will be utilized.

#### *Q. Loan Approval and Obligating Funds*

When issuing a Conditional Commitment under § 4279.173(a), one of the conditions shall be that the project receiving guaranteed loan funds under this Pilot Program will be in compliance with all applicable State environmental laws and regulations.

#### *R. Domestic Lamb Industry Adjustment Assistance Program Set Aside*

Section 4279.175 is not applicable.

#### *S. Routine Servicing*

In addition to complying with the requirements in part 4287, subpart B, once the renewable energy project has been constructed, the lender must provide the Agency periodic reports from the borrower commencing the first full calendar year following the year in which project construction was completed and continuing for the life of the project. The borrower's reports will include, but not be limited to, the information specified in the following paragraphs, as applicable.

(a) The actual amount of energy produced in BTUs, kilowatts, or similar energy equivalents (first 3 full years after project construction completed).

(b) If applicable, documentation that identified health and/or sanitation problem has been solved (for the life of the project).

(c) The annual income and/or energy savings of the renewable energy system (first 3 full years after project construction completed).

(d) A summary of the cost of operating and maintaining the facility (first 3 full years after project construction completed).

(e) Description of any maintenance or operational problems associated with the facility (for the life of the project).

(f) Recommendations for development of future similar projects (for the life of the project).

(g) The amount (pounds) separately of specified risk materials, non-ambulatory cattle, and other cattle deemed to be a risk of carrying BSE processed (for the life of the project).

(h) Demonstration that the project is and has been in compliance with all applicable State environmental laws and regulations (for the life of the project).

#### *T. Transfer and Assumption*

In complying with the requirements in § 4287.134, loans to provide additional funds in connection with a transfer and assumption must be considered as a new loan application under § 4279.161.

#### *U. Forms*

This Pilot Program relies on numerous existing forms in the Business and Industry Guaranteed Loan program. These forms are to be used for the Pilot Program as they currently exist and as approved by the Office of Management and Budget, except as follows:

(a) Lender's Agreement (Form 4279-4).

(1) Section I, Item B, is applicable with the addition that negligent servicing includes any instance where a lender fails to ensure that all environmental laws are being complied with by an operation receiving guaranteed loan funds under this Pilot Program.

(2) Section III, Item A.2, is not applicable.

(b) Loan Note Guarantee (Form 4279-5), Section 3, Full Faith and Credit, under Conditions of Guarantee is applicable with the addition that negligent servicing includes any instance where a lender fails to ensure that all environmental laws are being complied with by an operation receiving guaranteed loan funds under this Pilot Program.

Dated: May 12, 2004.

**Gilbert G. Gonzalez, Jr.,**

*Acting Under Secretary.*

[FR Doc. 04-11244 Filed 5-17-04; 8:45 am]

**BILLING CODE 3410-XY-P**

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## **DEPARTMENT OF COMMERCE**

### **Bureau of Economic Analysis**

#### **Proposed Data Sharing Activity**

**AGENCY:** Bureau of Economic Analysis, Department of Commerce.

**ACTION:** Notice and request for public comment.

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**SUMMARY:** The Bureau of Economic Analysis (BEA) proposes to provide to the Bureau of the Census (Census Bureau) data collected in its surveys of foreign direct investment (FDI) in the United States for statistical purposes exclusively. In accordance with the requirement of section 524(d) of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), we are providing the opportunity for public comment on this data-sharing action. The Census Bureau will link the FDI data, primarily those collected in the Benchmark Survey of Foreign Direct Investment in the United States—2002, to establishments in the Census Bureau's 2002 Economic Census and Business Register. Through the use of these shared data, the Census Bureau