

Summary of USDA's REAP Grant Program Proposed Rule

(Comments due to USDA by December 15, 2008)

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Presentation Overview

- Update on USDA timelines for REAP-related rules.
- Summary of REAP grant proposal.
- Opportunities to comment.



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General Information on USDA's Proposal

- Published in Federal Register October 15, 2008.
Comment Deadline December 15, 2008.
- APPLIES TO FY2010 (10/1/09 – 09/30/10).
- USDA has proposed to consolidate 8 Rural Development grant programs into a single grant “platform” .
- A platform is a common set of rules and requirements .
 - The platform also has additional program-specific rules.
- One goal is to separate application timing from timing of funds availability from Congress.



General Information (cont'd)

- The 8 Rural Development grant programs in the proposal include 5 “nationally-competed” and 3 “state-allocated” grant programs.
- Nationally-competed grant programs have specified deadlines.
- State-allocated programs have open deadlines.



Key REAP Funding Limits

- No grant minimums/maximums specified in proposal – will appear in Notifications.
- \$200,000 – total project value limit for Simplified Application process (same as current).
- \$50,000 – grant size limit for avoiding loan guarantee restriction (NEW).
- \$20,000 – law requires USDA to set aside at least 20% of total REAP funding for grants of this size or less. USDA doesn't address this in the proposal.



Key Changes From Current REAP Rules

- USDA only will consider funding grants of more than \$50,000 if
 - the applicant cannot obtain a USDA loan guarantee for any part of the project,
 - *or* if a grant is necessary to support a bank-issued guaranteed loan.
- No change to “rural area” requirement for ag producers such as greenhouses – fails to respond to public requests to change to include *all* agricultural producers.



Key Changes From Current Rules (cont'd)

- Only one application deadline for REAP grants – June 15.
- “Preapplication” deadline of January 15.
- New “ranking” system for applications, and several scoring changes.
- More USDA discretion (cuts both ways).
- Additional reporting requirements.



USDA’s Planned Application Approach

1. Accepts voluntary preapplications to determine *Applicant* and *Project* eligibility (Jan. 15).
2. Accepts applications submitted on-line or to USDA state RD offices by June 15.
 - *Comment – too late, consider other options for application deadlines.*
3. Scores and “ranks” applications on or after March 15 and July 15.
4. Obligates funds for successful projects.



Preapplications – NEW

- Due January 15 (2010 and thereafter).
- USDA will use to determine applicant and project eligibility.
- No criteria for what should be in the preapplication.
- USDA hasn't committed to a response date for preapplications.
 - *Comment – Preapplication proposal seems vague in current form.*



Step 1: Threshold Conditions - General

- Applicant must be *eligible* (e.g., citizenship).
- Project must be *eligible* (e.g., located in rural area).
 - *Comment – USDA is not listening to concerns on this issue and is applying the rule inconsistently.*
- Project must be *feasible or likely to be feasible*, based on “financial, technical, and environmental feasibility and sustainability of the project.”
 - *Comment – no clear criteria for feasibility. Not in current 9006 rules.*



Threshold Condition – Loan Guarantee Requirement - NEW

- If requested grant amount is \$50,000 or less, USDA will consider funding application on its own merit, without considering other sources of funding, including loan guarantees.
- If amount is more than \$50,000, USDA will consider funding the project only if:
 - *Applicant cannot obtain a USDA loan guarantee for any part of the project; or the requested grant amount is necessary for a bank to make a guaranteed loan to the applicant.*
- USDA rationale – preserve grant money for small projects.



Problems with the Loan Guarantee Requirement

- Creates new complexity barrier -- contrary to REAP language and Congressional intent for simplicity.
- Forces loan guarantees even if banker will finance project without it.
- Loan guarantees cost applicants (service fees).
- No rationale for \$50,000 limit.



Step 2: Scoring – Notable Changes

- Environmental Benefits cut from 10 to 3 points.
- Readiness cut from 15 to 10 points.
- Prior Grant Recipient criterion deleted.
- Return on Investment cut from 10 to 6 points.
- New categories for Hybrid Technology, Financial Need, and Administrator Priorities.



Step 3: Ranking Applications - NEW

- Goal – create a Priority List of projects for funding when money becomes available.
- Ranking criteria are:
 1. **Score**
 2. **Size of request relative to funds remaining in the program for the year** – if insufficient funds to select a higher-scoring application, USDA may select the next-highest scoring application.



Step 3 (cont'd): Ranking Applications – NEW

3. **Non-availability of other funds needed for project** – If RD loans and other non-RD funding sources are needed but unavailable at the time of ranking, USDA may instead select the next-highest scoring application.
 - *Comment— USDA should increase transparency in the ranking process— e.g., release results.*



Step 4: USDA Obligates Funds/Issues Grant

- Grant to be issued when funds are available and the project is either finished or upon completion of milestones (as under current law).



Step 5: Reporting Requirements - NEW

- Grantees required to submit semi-annual performance reports during construction.
- Final report to be submitted after completion.



Other Issues for Comment

- USDA use of Notifications
- Additional forms/technical standards not in rule



Notifications

- USDA intends to use Notifications for several purposes, including: Identify grant minimum and maximum levels each year; Application or ranking date changes; Administrator Priority Category changes.
- USDA only plans to use Federal Register notices for REAP program Notifications.
- Weak commitment to issuing Notifications in timely manner.
 - *Comment: We recommend using USDA website, news releases and other methods as well.*



Technical Report Information Removed From Rule

- Technical Report criteria (currently in 7 CFR § 4280.111(a)(7)) and requirements (currently in the Appendices to the 2005 9006 rules) will be available only on the Agency's website and at Rural Development offices as "handbook" language.
- These criteria specify such information as the level of detail/type of report/whether a Professional Engineer is required, and all of the technology-specific Technical Report requirements.
 - *Comment – We're concerned that this will create confusion and delay if the information either is not easily available or changes during the year.*



For more information . . .

- We will publish this Presentation and related information at www.farmenergy.org.
- Otherwise, please contact ELPC staff:
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