

# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Agency Information Collection Activities: Proposed Collection; Comment Request—Information Collection for the Summer Food Service Program

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on a proposed information collection for the Summer Food Service Program (SFSP). Pursuant to Section 13 of the Richard B. Russell National School Lunch Act (NSLA), the SFSP provides assistance to States to initiate and maintain nonprofit food service programs for needy children during the summer months and at other approved times. Subsection (m) of the statute directs States and service institutions participating in the SFSP to keep accounts and records necessary to enable the Secretary to determine whether there has been compliance with this section and the SFSP regulations. This information collection concerns the efforts required of States and service institutions to comply with the Secretary's requests for information. This proposed collection is a revision of the currently approved collection for the SFSP.

**DATES:** Written comments must be submitted by September 22, 2009.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of 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: Mrs. Lynn Rodgers-Kuperman, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service (FNS), U.S. Department of Agriculture, 3101 Park Center Drive, Room 638, Alexandria, Virginia 22302. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All written comment(s) will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Lynn Rodgers-Kuperman at (703) 305-2590.

#### SUPPLEMENTARY INFORMATION:

*Title:* Summer Food Service Program.

*OMB Number:* 0584-0280.

*Expiration Date:* January 31, 2010.

*Type of Request:* Revision of a currently approved collection.

*Abstract:* Section 13 of the NSLA, as amended, 42 U.S.C. 1761, authorizes the Summer Food Service Program to provide assistance to States to initiate and maintain nonprofit food service programs for needy children during the summer months and at other approved times. The purpose of this submission to OMB is to obtain approval to continue the discussed information collection. States and service institutions participating in the SFSP will submit to FNS account and record information reflecting their efforts to comply with statutory and regulatory Program requirements.

*Respondents:* The respondents are state agencies and not-for-profit institutions.

*Estimated Number of Respondents:* 53 State agencies, 3,842 sponsors, and 32,697 camps.

*Estimated Total Annual Responses:* 20.

*Estimated Hours per Response:* 1.

*Estimated Annual Burden Hours:* 731,840.

Dated: July 16, 2009.

**Julia Paradis,**

*Administrator, Food and Nutrition Service.*

[FR Doc. E9-17719 Filed 7-23-09; 8:45 am]

**BILLING CODE 3410-30-P**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

#### American Recovery and Reinvestment Act of 2009 Business and Industry Guaranteed Loan Program

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

**ACTION:** Notice.

**SUMMARY:** The Rural Development Business and Cooperative Programs are administered through USDA ("the Agency"). This Notice announces the availability of stimulus assistance provided pursuant to Title 1 of Division A of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5).

**DATES:** Applications will be accepted until September 15, 2010, or until funds are expended. Program funding expires September 30, 2010.

The comment period for information collection under the Paperwork Reduction Act of 1995 continues through September 22, 2009. Comments on the paperwork burden must be received by this date to be assured of consideration.

**ADDRESSES:** If you wish to apply for assistance or are in need of further information, contact the USDA Rural Development State Office in the State where your project is located. A list of USDA Rural Development State Offices is available at <http://www.rurdev.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Bonnet, Rural Development, Business Programs, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 3221, Washington, DC 20250-3221; *e-mail:*

Rick.Bonnet@wdc.usda.gov; telephone (202) 720-1804.

**SUPPLEMENTARY INFORMATION:**

**Administrative Procedure Act Statement**

This Notice is being issued without advance rulemaking or public comment. The Administrative Procedure Act ("APA", 5 U.S.C. 553), has several exemptions to rulemaking requirements. Among them is an exemption for matters relating to Federal benefits, but under the provisions of the "Statement of Policy of the Secretary of Agriculture effective July 24, 1971," issued by Secretary Hardin in 1971 (36 FR 13804 (the "Hardin Memorandum")), the Department will normally engage in rulemaking related to Federal benefits despite that exemption. However, the Hardin Memorandum does not waive certain other APA-contained exemptions, in particular the "good cause" exemption found at 5 U.S.C. 553(b)(3)(B), which allows effective government action without rulemaking procedures where withholding the action would be "impracticable, unnecessary, or contrary to the public interest." The Hardin memorandum specifically provides for the use of the "good cause" exemption, albeit sparingly, when a substantial basis for so doing exists, and where, as will be described more fully below, that substantial basis is explained.

USDA has determined, consistent with the APA and the Hardin Memorandum, that making Recovery Act funds available under the Business and Industry (B&I) Guaranteed Loan Program as soon as possible is in the public interest. Withholding this Notice to provide for public notice and comment would unduly delay the provision of benefits associated with the provision of the Recovery Act funds and be contrary to the public interest. Should the actual practice of the program produce reasons for program modifications those modifications can be brought to the attention of the Department and changes made in the future rulemaking process.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995, Rural Development is requesting comments from all interested individuals and organizations on a new information collection for the provision of Recovery Act funds under the B&I Guaranteed Loan program. The information collection activities associated with this Notice have been submitted under the emergency processing procedures of the Paperwork Reduction Act (PRA) of

1995. As discussed above in the APA section, USDA believes that there is good cause to forgo any delay associated with the opportunity for advance public comment. However, in accordance with the requirements of the PRA, USDA Rural Development will ultimately seek standard OMB approval of the reporting requirements contained in this Notice and hereby opens a 60-day public comment period regarding the information collection activities contained in this Notice.

Copies of all forms, regulations, and instructions referenced in this NOFA may be obtained from Rural Development. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, the failure to provide data could result in program benefits being withheld or denied.

*Title:* Business and Industry Guaranteed Loan Program American Recovery and Reinvestment Act of 2009.

*OMB Control Number:* New.

*Type of Request:* New collection.

*Abstract:* Under this Notice, the Agency is making available Recovery Act funds for the B&I Guaranteed Loan Program. In order to appropriately use these funds for guaranteeing B&I loans, it is necessary to obtain information on rural areas experiencing persistent poverty, outmigration, high unemployment, and under-served and under-represented groups and areas, which are among those areas hardest hit by the current economic crisis.

The majority of proposed information collection activities associated with this Notice will be essentially the same as the currently approved Business and Industry (B&I) Guaranteed Loan Program collection, OMB Number: 0570-0017, with the exception of certain requirements associated with the definition of quality of jobs, such as:

- To document that the business qualifies under the Work Opportunity Tax Credit Program authorized by the Small Business and Work Opportunity Tax Act of 2007, lenders must obtain from the borrower a copy of the certification from the appropriate State workforce agency.
- To document that the business offers a healthcare benefits package to all employees, with at least 50 percent of the premium paid by the employer, the lender must obtain from the borrower a copy of Internal Revenue Service, Department of Labor Form 5500 (Annual Return/Report of Employee Benefit Plan) and provide a written certification that the employer pays at least 50 percent of the premiums. The collection of information is vital to the

Agency to make wise decisions regarding the eligibility of applicants for B&I Guaranteed Loans that are guaranteed using Recovery Act funds in order to ensure compliance with the provisions of this Notice. In summary, this collection of information is necessary in order to appropriately use Recovery Act funds for guaranteeing B&I loans. Further, other than the information collections associated with the general requirements of the Recovery Act, the vast majority of these collections are currently being made with respect to the current B&I program. The focus of the new collections concerns requirements of the definition of quality of jobs.

The following estimates are for \$1.7 billion of Recovery Act funds available to the B&I Guaranteed Loan Program.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 1.6 hours per response.

*Respondents:* Rural businesses.

*Estimated Number of Respondents:* 700.

*Estimated Number of Responses per Respondent:* 22.4.

*Estimated Number of Responses:* 15,703.

*Estimated Total Annual Burden (hours) on Respondents:* 25,409.

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

**Comments**

Comments are invited regarding: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of Rural Development, including whether the information will have practical utility; (b) the accuracy of Rural Development's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) 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 Management Branch, Support Services Division, 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 be a matter of public record.

### Overview Information

**Federal Agency Name.** Rural Development, Rural Business-Cooperative Service.

**Funding Opportunity Title.** Business and Industry Guaranteed Loan Program.

**Announcement Type.** Initial announcement.

**Catalog of Federal Domestic Assistance (CFDA) Number.** The CFDA number assigned to the American Recovery and Reinvestment Act funds for the Business and Industry Guaranteed Loan program is 10.782.

**DATES.** Applications will be accepted until September 15, 2010, or until funds are expended. Program funding expires September 30, 2010.

**ADDRESSES.** If you wish to apply for assistance or are in need of further information, contact the USDA Rural Development State office in the State where your project is located. A list of USDA Rural Development state offices is available at: <http://www.rurdev.usda.gov>.

### I. Funding Opportunity Description

**A. Purpose.** This Notice is issued pursuant to the recently passed American Recovery and Reinvestment Act of 2009. The Recovery Act provides for additional funds to the Agency for use under the B&I Guaranteed Loan Program. With this Notice, the Agency is announcing the availability of funding through the B&I Guaranteed Loan program for eligible projects.

The provisions in this Notice apply only to the award of Recovery Act funds made available to the B&I Guaranteed Loan Program pursuant to this Notice. These provisions do not apply to loans funded under the Omnibus Appropriations Act of 2009 or the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009.

**B. Statutory Authority.** This program is authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

**C. Definitions.** The following definitions are applicable to this Notice.

**High unemployment.** Any area that has an unemployment rate that is 125 percent of the nationwide rate or greater.

**Outmigration.** Any area of long-term population decline and job deterioration based on reliable statistical data. Population loss, particularly that which results in loss of jobs, can result from a lower rate of births than deaths and prolonged movement from a place of

origin to another location. Outmigration of jobs is the result of traditional jobs not being replaced by new types of jobs. Communities that experience seasonal fluctuations due to tourism will not be considered under this definition. The Agency will use data from the 1980, 1990, and 2000 decennial census to determine if outmigration occurred.

**Persistent poverty.** Any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1980, 1990, and 2000 decennial census.

**Quality jobs.** This relates to the quality of the jobs provided by the borrower. For the purposes of this Notice, a quality job is one which:

(i) Pays wages that average at least 125 percent of the Federal minimum wage; or

(ii) Qualifies under the Work Opportunity Tax Credit Program authorized by the Small Business and Work Opportunity Tax Act of 2007; or

(iii) Offers healthcare package to all employees, with at least 50 percent of the premium paid by the employer for employees.

**Under-served groups and under-represented areas.** Any geographic area and population group that has not historically received the benefits of the B&I program as compared to other areas and groups.

In implementing this definition, State Office Program officials will:

- Analyze their State loan participation data;
- Determine group or groups who typically have not participated in Agency Programs in the areas that are under-served and under-represented (no loans in areas that have need for the benefits of the loans); and

- Determine where projects have been funded and give priority to projects that could be located in areas of greatest need based on the data analysis (under-served groups and under-represented areas).

Under-served groups and under-represented areas generally concern a “protected class.” Protected class, a term used in Civil Rights anti-discrimination law, describes groups of people who historically have been treated differently because of their race, color, gender or national origin and are now protected from discrimination and harassment.

Civil Rights laws cover individuals’ Ethnicity—Hispanic or Latino or non-Hispanic; and Race—American Indians and Alaska Natives, Asian, Black or African American, Native Hawaiians and Pacific Islanders and White.

Racial and ethnic disparities exist in providing Federal assistance through

administration of program funds. Statistics show people of the “protected class” have not participated to the level of non-minority participants. To become more transparent and to be proactive in the elimination of disparity, we embrace enhanced program outreach, education, and technical assistance to under-served areas and groups to eliminate disparities. State Program Officials will develop and implement a meaningful outreach plan to assist in eliminating disparity in the delivery of programs to the under-served and under-represented area.

**D. Implementation of Recovery Act provisions.** Consistent with the purposes of the Recovery Act, the Agency has determined that the most effective use of these program funds is to target them to encourage the creation or retention of quality jobs through the extension of business credit in those rural areas of greatest need, most difficult to reach, and among those areas hardest hit by the current economic crisis.

In determining the type of incentives that participating lenders would need to generate quality loans in these critical rural areas, the Agency considered adjustments to several features of the B&I program over which we have control, including the percentage of guarantee, annual renewal fee, and guarantee fee; without compromising Agency underwriting standards.

As a result, the Agency decided to provide for up to 90 percent guarantees to all Recovery Act funded loans that score at least 55 priority points under the Agency priority scoring criteria in 7 CFR 4279.155. In addition, the Agency decided to reduce the guarantee fee to 1 percent and eliminate the annual renewal fee for all B&I Recovery Act funded loans.

The Agency is not proposing changes of the requirements currently reflected in its B&I program regulations, regarding the circumstances under which it will offer a 90 percent guarantee. Rather, it is utilizing certain existing program features to encourage economic stimulus in those rural areas experiencing persistent poverty, outmigration, high unemployment, and under-served and under-represented groups and areas, which are among those areas hardest hit by the current economic crisis. In determining whether a Recovery Act loan applicant will be eligible for up to a 90 percent guarantee, it will be evaluated based on the current B&I regulations at § 4279.155, consistent with the guidance provided in OMB Circular A-129.

## II. Funding Information

A. *Available funds.* The Recovery Act provides \$126,100,000 in budgetary authority for this program through September 30, 2010, to support loan guarantees based on credit subsidy scoring that is yet to be determined. The available program level under this Notice is \$1.7 billion that shall be available to support loan guarantees until September 30, 2010.

B. *Funding limitations.* The Agency will distribute Recovery Act funds on a first-come-first-served basis. Ten percent of Recovery Act funds will be allocated for businesses located in persistent poverty counties, as provided for in the Recovery Act.

## III. Program Provisions Specific to Guaranteed Loans

### *Seeking Recovery Act Funds*

This section of the Notice identifies provisions specific to guaranteed loans applications seeking Recovery Act funds. Unless otherwise indicated, these provisions are in addition to those in 7 CFR part 4279, subparts A and B.

A. *Scoring applications.* When awarding administrator points under 7 CFR 4279.155(b)(6), State Directors and the Administrator will award their points to an application only if the proposed project will provide quality jobs and meets at least one of the demographic criteria (outmigration, high unemployment, under-served/under-represented areas and groups, and persistent poverty counties).

B. *Guarantee fee.* Notwithstanding the provisions of 7 CFR 4279.107(a), the guarantee fee for Recovery Act funded guaranteed loans shall be one (1) percent.

C. *Annual renewal fee.* The annual renewal fee specified in 7 CFR 4279.107(b) does not apply to Recovery Act funded guaranteed loans.

D. *Ineligible purposes.* Notwithstanding the provisions of 7 CFR 4279.113, the following purposes are ineligible for Recovery Act funded guaranteed loans:

- (1) Zoos;
- (2) Aquariums;
- (3) Convenience stores, unless the store provides quality jobs and sells or will sell E85 fuel upon completion of the project;
- (4) Pools;
- (5) Water parks;
- (6) Hotels/motels and other facilities that have pools or water parks;
- (7) Golf courses;
- (8) Casinos or other gambling establishments; and
- (9) Museums.

E. *Percent guarantee.*

Notwithstanding the criteria specified in

7 CFR 4279.119(b), applications that score at least 55 points using the B&I scoring criteria in 7 CFR 4279.155 are eligible for up to a 90-percent guarantee as provided in 7 CFR 4279.119(b).

## IV. Nondiscrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability and, where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TTY). To file a complaint of discrimination, write to USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (866) 632-9992 (voice), or (202) 401-0216 (TDD).

## V. Civil Rights Compliance Requirements

All awards are subject to the equal opportunity and nondiscriminatory requirements in accordance with the Equal Credit Opportunity Act, 7 CFR 15d, conducted programs by USDA and RD Instructions 7 CFR part 1901-E.

## VI. Wage-Rate Requirements

All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of 40 U.S.C. In this regard, the award will contain the following provision:

### *Wage Rate Requirements Under Section 1606 of the American Recovery and Reinvestment Act, 2009*

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in

accordance with subchapter IV of chapter 31 of 40 U.S.C.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration and/or repair (including painting and decorating). Projects exceeding \$100,000 must also incorporate requirements of 29 CFR 5.5(b).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan No. 14.

## VII. National Environmental Policy Act of 1969

Implementation of the Recovery Act will utilize existing environmental review compliance requirements in accordance with its statutory and regulatory obligations. The Agency's respective environmental policies and procedures are codified in 7 CFR part 1940, subpart G. All relevant environmental compliance requirements are integrated in the above regulations, including the National Environmental Policy Act, National Historic Preservation Act and Endangered Species Act compliance processes.

All program applicants are required to integrate environmental factors, along with other technical and financial considerations, into early project planning and design. The environmental review process must be completed, including all public notice requirements prior to funding any proposals.

## VIII. Accountability and Transparency and Responsibility for Informing Sub-Recipients

Recipients and their sub-recipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times for

which they have active Federal awards funded with Recovery Act funds.

All awards will contain the following tracking and documenting requirements:

*Recovery Act Transactions Listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub-Recipients*

(a) To maximize the transparency and accountability of funds authorized under the Recovery Act as required by Congress and in accordance with 2 CFR 215, subpart 21 and OMB Circular A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of part III on the SF-SAC.

(c) Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Recipients agree to require their sub-recipients to include their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor sub-recipient expenditure of Recovery Act funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

Certifications Pursuant to Section 1511 of the Recovery Act

With respect to these funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Such certification shall include a description of the investment, the estimated total cost, and the amount of these funds to be used, and shall be posted on <http://www.recovery.gov>. A State or local agency may not receive infrastructure investment funding from funds made available in the Recovery Act unless this certification is made and posted.

#### IX. Set Aside

Ten (10) percent of funding shall be allocated to assist businesses in persistent poverty counties.

#### X. Whistleblower Protection

Each recipient or sub-recipient awarded funds made available under the Recovery Act shall promptly refer to the USDA Office of Inspector General, any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

#### *Section 1553(a) of the Recovery Act Provides Protection for Whistleblowers*

Prohibition of Reprisals—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—

(1) Gross mismanagement of an agency contract or grant relating to covered funds;

- (2) A gross waste of covered funds;
- (3) A substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- (4) An abuse of authority related to the implementation or use of covered funds; or
- (5) A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

#### XI. Buy American

None of the funds made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States or unless USDA Rural Development waives the application of this provision. (Sec. 1605)

(a) If the applicant's requested use of Recovery Act funds involves the construction, alteration, maintenance, or repair of a public building or public work, and does not involve iron, steel, and or manufactured goods covered under international agreements, the following is applicable:

#### *Notice of Required Use of American, Iron, Steel, and Manufactured Goods—Section 1605 of the American Recovery and Reinvestment Act, 2009*

(1) *Definitions.* Manufactured good, public building and public work, and steel, as used in this Notice, are defined in 2 CFR 176.140.

(2) *Requests for determinations of inapplicability.* A prospective applicant requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) should submit the request to the award official in time to allow a determination before submission of applications or proposals. The prospective applicant shall include the information and applicable supporting data required by 2 CFR 176.140(c) and (d) in the request. If an applicant has not requested a determination regarding the inapplicability of section 1605 of the Recovery Act before submitting its application or proposal, or has not received a response to a previous request, the applicant shall include the information and supporting data in the application or proposal.

(3) *Exceptions.* Section 1605 of the Recovery Act may apply to project-specific exceptions. When one of the following exceptions applies, the loan approval official may allow the loan,

grant, or loan guarantee recipient to use foreign iron, steel, or manufactured goods in a given project. Project specific exceptions may not be used unless requested by the applicant, approved by the Agency, and published in the **Federal Register** as noted below.

*Justifications:* Any exception must be based on one of the following three justifications:

- *Non-availability.* Iron, steel, or relevant manufactured goods are not produced or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality.
- *Unreasonable cost.* The cost of domestic iron, steel, or relevant manufactured goods will increase the cost of the overall project by more than 25%.
- *Public interest.* The application of these restrictions would be inconsistent with the public interest.

(4) *International Agreements.* Section 1605(d) does not apply to implementation of the Buy American provisions in Recovery Act for USDA, Rural Development programs.

Dated: July 17, 2009.

**Judith A. Canales,**

*Administrator, Rural Business-Cooperative Service.*

[FR Doc. E9-17600 Filed 7-23-09; 8:45 am]

BILLING CODE 3410-XY-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Shasta-Trinity National Forest, California; Harris Vegetation Management Project

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Shasta-Trinity National Forest proposes to improve forest health and restore fire-adapted ecosystem characteristics on approximately 3,000 acres of National Forest System Lands in and adjacent to the Harris Mountain Late-Successional Reserve. Ground and ladder fuels would be reduced. In addition, forested stands would be thinned to yield a fire-resilient forest where periodic low-intensity surface fires can be safely reintroduced. Selective removal of trees is proposed to produce forested areas dominated by fire-resilient tree species with sustainable densities and to exhibit stand structure that provides habitat for late-seral dependent species. Reducing overcrowded conditions will enhance tree survival from insects, drought and disease, and natural disturbance. Trees

to be removed would generally be smaller in size than trees retained; renewable by-products including commercial sawtimber and energy from biomass are expected. Dying and diseased mature lodgepole stands within the project area would be regenerated through the removal of most overstory trees. Aspen and oak hardwood trees species will be retained. Removal of conifers competing with existing aspen and oak hardwood trees will enhance the overall diversity of forest stands. Surface and ladder fuel loads will be reduced through removal of brush and small-diameter trees in the forest understory and by underburning. Proposed road reconstruction, closure and decommissioning will aid in restoration of drainage patterns and sediment regimes supporting aquatic systems. The project is located in Siskiyou County within portions of T41N, R1E, section 1; T42N R1E section 36; T42N R2E sections 17–21 and 28–36; and T41N R2E sections 1–6 and 9 Mt. Diablo Meridian.

**DATES:** Comments concerning the scope of the analysis must be received no later than 30 days after the publication of this notice in the **Federal Register**. The draft environmental impact statement is expected in April 2010 and the final environmental impact statement is expected in September 2010.

**ADDRESSES:** Send written comments to District Ranger Priscila S. Franco, Shasta-McCloud Management Unit, 204 W. Alma St., Mt. Shasta, California 96067. Electronic comments can be sent via e-mail to: *comments-pacificsouthwest-shasta-trinity-mtshasta-mccloud@fs.fed.us*.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the respondent with standing to participate in subsequent administrative review or judicial review.

**FOR FURTHER INFORMATION CONTACT:** John Natvig, P.O. Box 688, Hot Springs, SD 57747, telephone (605) 745-3253, e-mail *jnatvig@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

### Purpose and Need for Action

The purpose of the proposed action is to improve forest health and growth, protect and enhance conditions of late-successional forest ecosystems and reduce fuel loading. The 9,100 acre project area falls within lands identified by the Shasta-Trinity Land and Resource Management Plan (Forest Plan) as Matrix (76 percent) and Late-Successional Reserve (24 percent). Forest stands are overcrowded resulting in competition for water, nutrients and sunlight—conditions which increase the risk of insect infestation. Lodgepole pine stands in the project area are overmature and infected with disease. The overstory trees are dying and new trees are becoming established; however, disease is spreading from the overstory to the new stand. Natural disturbances, such as wildfire that released aspen and oak hardwoods, have been suppressed over the last 60 years; hardwoods are in decline as a result. Conifer species dominate the overstory canopy and out-compete aspen and oak hardwoods for available sunlight and other site resources. Late-Successional Reserves are allocated by the Forest Plan to provide late-successional and old-growth forest; however, less than one percent of this reserve is currently providing such habitat (Shasta-Trinity National Forest Wide Late-Successional Reserve Assessment, 1999). Dense forest conditions delay the development of early seral to mid-successional conditions and mid-successional to late-successional stands. Dense understory trees coupled with an accumulation of surface fuels increases the chances of a wildfire reaching the overstory canopy, yielding the potential for stand replacement. The proposed action is also designed to provide for proper drainage of system roads to minimize surface erosion. It will also ensure that culverts in the area are fully functional and of proper size to facilitate area drainage and prevent erosion-causing water flow over the surface of the road. There are approximately two miles of unclassified and Forest System roads in the project area that are unnecessary for long term management; the proposed action would decommission these road segments.

### Proposed Action

The proposed action includes: (1) Thinning in mixed conifer stands; (2) lodgepole pine regeneration harvest; (3) enhancement and retention of hardwood species; (4) fuel treatments; (5) road reconstruction; and (6) road decommissioning.