

Supporting Statement
Advanced Biofuel Payment Program
0570-NEW

A. Justification

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

The Agency is implementing a new Advanced Biofuel Payment Program (the Program).

This Program, newly authorized under section 9005 of Title IX of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), authorizes the Agency to enter into contracts to make payments to eligible entities to support and ensure an expanding production of advanced biofuels. Entities eligible to receive payments under the Program are producers of advanced biofuels that meet all of the requirements of the Program. Such entities can be an individual or legal entity, including a corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or non-profit that produces an advanced biofuel.

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

Advanced biofuel producers seeking to participate in the Program must enroll in the Program by submitting an application (form RD 9005-1) that includes specific information about the producer and the producer's advanced biofuel biorefineries. This information will be used to determine whether the advanced biofuel producer is eligible to participate in the Program and whether the advanced biofuel being produced is eligible for payments under the Program. Form RD 9005-1 will also be used by the Agency to sign-up advanced biofuel producers in subsequent fiscal years (FY) and to obtain information to help determine payment rates.

Once an advanced biofuel producer has been approved for participation in the Program, the producer and the Agency will enter into a contract (form RD 9005-2). Once the contract is signed, the advanced biofuel producer will submit a payment request (form RD-9005-3) on a quarterly basis. The information in the payment request forms will be used by the Agency to

determine payments to the advanced biofuel producers.

REPORTING REQUIREMENTS - FORMS

Forms and Submission Information (Section IV)

Form RD 9005-1, "Advanced Biofuel Payment Program Annual Application"

Applicants seeking to participate in the Program will have to submit this form in order to apply for participation in this Program. This form requires an Advanced Biofuel Producer seeking to participate in this program to provide information on the Advanced Biofuel Producer; the Advanced Biofuel Producer's Biorefineries at which the Advanced Biofuels are produced, including location and quantities produced; and the types and quantities of Renewable Biomass feedstock being used to produce the Advanced Biofuels. The form also requires the Advanced Biofuel Producer to certify the information provided, including that the Advanced Biofuels are Eligible Advanced Biofuels and that the Renewable Biomass feedstock used to produce the Advanced Biofuels are eligible biomass feedstock. Producers must submit authoritative evidence documenting production of Advanced Biofuels, and the eligibility of the Advanced Biofuels. Applicants are required to have a Dun and Bradstreet Universal Numbering System (DUNS) number (unless the applicant is an individual).

The Advanced Biofuel Producer must also furnish the Agency all required certifications, as applicable, before acceptance into the program, and furnish access to the Advanced Biofuel Producer's records required by the Agency to verify compliance with program provisions. The required certifications depend on the type of Biofuel produced. Certifications are to be completed and provided by an accredited independent, third-party. The specific certifications are identified below.

Alcohol. For Alcohol Producers with authority from ATF to produce Alcohol, copies of either the Alcohol Fuel Producers Permit (ATF F 5110.74) or the registration of Distilled Spirits Plant (ATF F 5110.41) and Operating Permit (ATF F 5110.23).

Hydrous ethanol. If the Advanced Biofuel Producer entering into this agreement is the hydrous Ethanol Producer, then the Advanced Biofuel Producer shall include with the Contract an affidavit, acceptable to the Agency, from the distiller stating that the applicable hydrous Ethanol produced is distilled and

denatured for fuel use according to ATF requirements and that the distiller will not include the applicable Ethanol in any payment requests that the distiller may make under this program.

If the Advanced Biofuel Producer entering into this agreement is the distiller that upgrades hydrous Ethanol to anhydrous ethyl Alcohol, then the Advanced Biofuel Producer shall include with the Contract an affidavit, acceptable to the Agency, from the hydrous Ethanol Producer stating that the hydrous Ethanol Producer will not include the applicable Ethanol in any payment requests that may be made under this program.

Biodiesel, biomass-based diesel, and liquid hydrocarbons derived from biomass. For these fuels, the Advanced Biofuel Producer shall self-certify that the producer, the Advanced Biofuel Biorefinery, and the Biofuel meet the definition, registration requirements as applicable under Energy Independence and Security Act, Clean Air Act, Environmental Protection Agency, Internal Revenue Service, and quality requirements per applicable ASTM International standards and commercially acceptable quality standards of the local market.

Gaseous Advanced Biofuel. For gaseous Advanced Biofuel Producers, certification that the Biofuel meets commercially acceptable pipeline quality standards of the local market.

If an applicant's original submittal is not sufficient to verify an applicant's eligibility, the Agency will notify the applicant, in writing, as soon as practicable. This notification will identify, at a minimum, the additional information being requested to enable the Agency to determine the applicant's eligibility and a timeframe in which to supply the information.

The Agency is requiring this form in order to ensure that only eligible advanced biofuel producers participate in the Program and to determine payments rates each FY.

Form RD 9005-2, "Advanced Biofuel Payment Program Contract"

Advanced biofuel producers determined to be eligible to participate in the Program must sign a contract with the Agency. The Advanced Biofuel Producer must agree to the terms and conditions of the Contract, sign, date, and return it to the Agency within the time provided by the Agency. This contract, which lays out the terms and conditions associated with participation in the Program, is required because it provides the basis under which the Agency will make payments to participating

producers.

Form RD 9005-3, "Advanced Biofuel Payment Program - Payment Request"

Once the Eligible Advanced Biofuel Producer has entered into a valid Contract with the Agency, participating advanced biofuel producers must submit a payment request each quarter in order to receive payments under the Program. This form requires the Advanced Biofuel Producer to provide information on the types and quantities of Advanced Biofuels produced in a Quarter and on the types and quantities of renewable feedstock used to produce those Advanced Biofuels. In addition, the Advanced Biofuel Producer will report cumulative production of Advanced Biofuels and the use of Renewable Biomass feedstock for all Advanced Biofuel Biorefineries. The information for each Advanced Biofuel Biorefinery is to be provided cumulatively and on an individual Advanced Biofuel Biorefinery basis.

After a Payment Application is submitted, Eligible Advanced Biofuel Producers may be required to submit additional clarification if their original submittal is not sufficient to verify eligibility for payment or quantity of the Advanced Biofuel product.

This information is required in order for the Agency to determine the payments to be made to the eligible producers each quarter and to track the quantities of advanced feedstock for which payments have been made.

RD Instruction 1940-Q, Exhibit A-1, "Restriction on Lobbying (if over \$100,000)". This form specifies that an applicant requesting funding in excess of \$100,000 agrees to certain restrictions on lobbying.

RD 400-4, "Assurance Agreement". All applicants and recipients are required to complete this form to comply with Civil Rights Acts and laws.

REPORTING REQUIREMENTS - FORMS APPROVED UNDER OTHER OMB NUMBERS

All applicants will be required (under Section IV.B. of the Notice) to submit the following standard application form:

SF-LLL, "Disclosure of Lobbying Activities". All applicants are required to complete this form, regardless of their involvement in lobbying activities.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Also describe any consideration of using information technology to reduce burden.

At this time, the Agency is planning to collect these forms as hard copy forms.

As the Agency promulgates a rule for this program, it will assess the feasibility of accepting electronic submissions of these forms. The Agency's plan envisions a system capable of electronically receiving from advanced biofuels producers the data elements contained in the forms associated with the Notice of Contract Proposal.

4. Describe efforts to identify duplication.

The Agency is relying on forms developed under a very similar program (Bioenergy Program) in developing the forms for this Program. If similar information is found to be available from another Federal agency, every effort will be made to utilize that information as is or in an appropriately modified form for this Program.

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

The information collection required places little or nominal burden on small entities beyond that performed in normal business practice. Furthermore, Rural Development is using modified forms that are very similar to forms already familiar to many of the anticipated advanced biofuel producers who would be seeking to participate in the Program.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information collected under the Program is the minimum necessary to conform to the requirements of the Program established by law. Information is collected when needed and cannot be collected less frequently and still meet the

requirements of the Program. Failure to collect proper information could result in improper determination of eligibility and improper payments.

7. Explain any special circumstances that would cause the collection of information to be conducted in a manner:

- a. Requiring respondents to report information to the Agency more often than quarterly. There are no information collection requirements that require specific reporting on more than a quarterly basis.
- b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it. There are no specific information collection requirements that require less than 30 days response from the producer.
- c. Requiring respondents to submit more than an original and two copies of any document. There are no information requirements that require more than an original and two copies.
- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. Not using statistical sampling. There are no such requirements.
- f. Requiring use of statistical data classification that has not be reviewed and approved by Office of Management and Budget (OMB). No such requirements exist.
- g. Requiring a pledge of confidentiality that is not supported by authority in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use. There are no such requirements.
- h. Requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permissible by law. There are no such requirements.

8. Comments on Agency's notice in the Federal Register and efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of the instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The Agency is seeking an emergency processing request due to the direction of the President's May 5, 2009, "Biofuels and Rural Economic Development" memorandum. This memorandum requests that the Secretary of Agriculture take steps to the extent permitted by law to "develop a comprehensive approach to accelerating the investment in and production of American biofuels" and for "expediting funding to biofuels producers to encourage production of next-generation biofuels from cellulosic biomass and other feedstocks." The 60-day notice for comment is embedded in the Notice of Contract Proposal (NOCP).

The Agency sought comments on section 9005 and other title IX section in the 2008 Farm Bill from outside persons during a "listening conference," which was held on September 4, 2008. One commenter provided comments related to the potential burden of implementing the advanced biofuels payment program. This commenter stated that the rules should be simplified and streamlined to attain the highest rate of participation possible from a variety of producers of advanced biofuels and accelerate commercial production.

The Agency has relied on the experience obtained on the Bioenergy Program and believes that the requirements for implementing the advanced biofuel payment program contained in the Notice are efficient and clear to encourage participation from all eligible advanced biofuels producers.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to respondents, including no remuneration of contractors or grantees.

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

No assurance of confidentiality is provided to respondents for the information required. When necessary, the Agency will

process any and all requests for release of records and information in accordance with the Privacy Act of 1974. However, in some instances, the information collected under the provisions of this program is not considered to be of a confidential nature. For example, organizations, such as not-for-profit entities and public bodies from which information is collected, are ordinarily required to make their activities available for public scrutiny.

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

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

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

Based on the anticipated funding level for this program, the estimated annual burden in the first year for this collection is 300 respondents; 2,082 responses; and 1,856 burden hours. This is equivalent to approximately 1 hour per response. The cost per hour used was \$60. Based on these data, the estimated annual cost of burden under the NOCP is \$111,330.

The following summarizes the estimate annual burden associated with the Program for the first year.

Burden Item	Estimated Annual Burden
Number of respondents:	300
Total annual responses:	2,082
Number of hours per response:	1
Total hours:	1,856
Cost per hour:	\$60
Total annual cost:	\$111,330

The attached spreadsheet provides the specific estimates.

13. Provide an estimate for the total annual cost burden to the respondents or recordkeepings resulting from the collection of information.

There are no capital and start-up costs or operations and maintenance costs associated with this collection.

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

The estimated wage of federal employees compiling the information is \$41 per hour. Administrative costs include the cost of promulgating the regulations, publication in the Federal Register, and development of forms, etc. The annual cost to the Government for the first year of the program is estimated to be \$217,649. The breakdown of cost to the Government by activity is as follows:

Allocation of Federal Government Costs

Activity	Estimated Annual Burden
Determine producer eligibility	\$18,450
Review contract forms	\$5,843
Process quarterly payment applications	\$23,370
Determine payment application eligibility (e.g., fuel eligibility)	\$70,110
Determine annual payment amounts	\$492
Review succession requests	\$1,968
Appeals	\$3,936
Conduct site visits	\$93,480
Total	\$217,649

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

This is a new information collection.

16. For collection of information whose results will be published, outline plans for tabulation and publication.

The Agency has no plans to publish information collected under the provisions of this program.

17. If seeking approval to not display the expiration date for

OMB approval of the information collection, explain the reasons that display would be inappropriate.

No approval is being sought.

18. Explain each exception to the certification statement in identified in item 19 of OMB 83-I.

There are no exceptions.

19. How is this information collection related to the Service Center Initiative (SCI)? Will the information collection be part of the one stop shopping concept?

The SCI calls for changes to improve services to the United States Department of Agriculture (USDA) customers. One aspect is providing one stop service for greater customer convenience in accessing USDA programs, including access to required forms.