

March 17, 2009
UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency (FSA)
OMB Number 0560-NEW
Biomass Crop Assistance Program (BCAP)

FSA is requesting an emergency approval to obtain OMB clearance for a new information collection on **Biomass Crop Assistance Program (BCAP)**. This information collection will be incorporated into the existing approved information collection package of 0560-0082 upon the six month renewal.

1. Explain the circumstances making collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Farm Service Agency (FSA) in Conservation and Environmental Programs Division has been tasked with implementing the Biomass Crop Assistance Program (BCAP) authorized by Section 9001 of the 2008 Farm Bill (Pub. L. 110-246), which amends Title IX of the Farm Security and Rural Investment Act of 2002 and adds section 9011 for BCAP.

On May 5, 2009, the President issued a Presidential Directive to Secretary of Agriculture Tomas R. Vilsack to aggressively accelerate the investment in and production of biofuels (published in the *Federal Register* on May 7, 2009 (74 FR 21531-21532), see attached). Secretary Vilsack also announced that he will help lead an unprecedented interagency effort to increase America's energy independence and spur rural economic development. The Presidential directive requests that Secretary Vilsack take steps to the extent permitted by law to expedite and increase production of and investment in biofuel development efforts by, among other things, making renewable energy financing opportunities from the 2008 Farm Bill available within 30 days, which includes guidance and support for the collection, harvest, storage, and transportation (CHST) assistance of eligible materials for use in biomass conversion facilities.

Information collection from eligible biomass owners and biomass conversion facilities meeting the requirements for CHST qualification is necessary in order to ensure the financial accountability needed to operate and administer the BCAP.

For CHST, the 2008 Farm Bill requires that:

The Secretary makes payment for the delivery of eligible material to a biomass conversion facility to:

- A producer of an eligible crop that is produced on BCAP contract acreage or
- A person with the right to collect or harvest the eligible material.
- Payments be made for collection, harvest, storage, and transportation to a biomass conversion facility.
- The Secretary may provide matching payments at a rate of \$1 for each \$1 per ton provided by

the biomass conversion facility, in an amount equal to not more than \$45 per ton for a period of 2 years.

The information CCC and FSA need to collect includes:

- Estimated and actual delivery information on application forms from eligible biomass owners and
- A Memorandum of Understanding from Biomass Conversion Facilities

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information will be collected from eligible biomass owners by FSA County Office staff and entered into the electronic form AD-245 and stored in an electronic database. The information collected from biomass conversion facilities seeking to become CHST qualified will be supplied directly from the biomass conversion facility staff and transmitted via fax to FSA headquarters staff in Washington, D.C. where it will be entered into an electronic database. Therefore, a memorandum of understanding (MOU) including the AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions, must be executed between CCC and the biomass conversion facility. The MOU will provide the BCAP provisions that must be followed by the biomass conversion facility to ensure equitable treatment of eligible biomass owners.

The information recorded will be used to produce reports, as needed, by FSA to inform the public how FSA has administered CHST funds at the state and county level and to establish a list of CHST Qualified biomass conversion facilities. When a biomass conversion facility meets these terms and enters into an MOU and AD-1047 with CCC, FSA county offices will periodically inform the public including agricultural and forest land owners and operators that matching payments may be available for deliveries of eligible material to CHST qualified biomass conversion facilities. FSA county offices will also maintain a publicly available listing of CHST qualified biomass conversion facilities for general public access and distribution that may include general information about the facility and its eligible material needs to encourage the development of new and open markets for commercial eligible material sales transaction.

The purpose of the CHST matching payment program is to assist eligible persons or entities with the collection, harvest, storage, and transportation of eligible material delivered for use in a CHST-qualified biomass conversion facility in advance of full implementation of BCAP. Through the CHST matching payment program CCC will provide payments at a rate of \$1 for each \$1 per dry ton paid by the CHST-qualified biomass conversion facility to the owner for delivery of eligible material to the facility in an amount not to exceed \$45 per dry ton. This program will be available to eligible material owners for a period of two years. These matching payments may be made to persons delivering eligible material to a CHST qualified biomass conversion facility who possess the right to collect or harvest eligible material and are considered the owners of the eligible material.

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, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

All information collected from eligible biomass owners will be transcribed into a FSA electronic database by FSA county staff. This information collection method was chosen due to FSA staff & patron familiarity with the process. Form AD-245 is used by other FSA Conservation programs including CRP, EAP, and ACP. Information collected on AD-1047 and MOU from biomass conversion facilities seeking CHST Qualification will be faxed to FSA staff in Washington, D.C. where it will be entered into a FSA electronic database.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in Item 2 above.

The information collected on the forms used in the BCAP, CRP and ECP are not duplicated by any other collection methods. The information relates specifically to practices and practice components that are designed specifically to the intentions on each program.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The information collected does not adversely impact small businesses or other small entities.

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.

Failure to collect information from either the eligible biomass owner or the biomass conversion facility will result in insufficient data necessary to properly administer BCAP in a financially sound manner.

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

- requiring respondents to report information to the agency more often than quarterly;

Yes, if eligible biomass owners elect to collect CHST matching payments more often than quarterly.

- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; **No**
- requiring respondents to submit more than an original and two copies of any document; **No**
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; **No**
- in connection with a statistical survey, that is not designed to produce valid and reliable results

that can be generalized to the universe of study; **No**

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB; **No**
- that includes a pledge of confidentiality that is not supported by authority established 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; or **No**
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law. **No**

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

This is a new information collection package. However, we are requesting **EMERGENCY CLEARANCE** because of the Presidential Directive directed the USDA Secretary to accelerate the biofuels programs that was published May 7th, 2009 in the Federal Register. The 60-day comment period will be incorporated into the Notice of Funding Availability in the Federal Register to solicit public comments to renew the information collection by incorporating it into the existing approval of the 0560-0082, Emergency Conservation Program.

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

No payments or gifts are provided to respondents.

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

All information collected is treated as confidential. Agency policy prohibits the giving out of individual information. This information is handled according to the Privacy Act and Freedom of Information Act.

- 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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

No questions of a sensitive or personal nature are collected

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

See attached FSA-85-1.

Eligible biomass owner burden: An eligible biomass owner is expected to visit the FSA County Office 1 time to file Page 1 of Form AD – 245 and, on average, 4 times in a given year to collect CHST matching payment for biomass delivered to a CHST Qualified facility. Form AD – 245 should take no more than 0.5 hours to complete.

a) corresponding form number (if applicable): Form AD - 245

b) number of respondents: 5,000

c) number of responses annually per respondent: 5

d) total annual responses (columns c x d): 25,000

e) estimated hours per response: 2.5 hours

f) total annual burden hours (columns e x f): 37,500

Biomass conversion facility seeking CHST Qualification burden: A MOU must be submitted to FSA staff in Washington, D.C. in order to apply for CHST Qualification. The MOU should take no more than 2 hours to complete.

a) corresponding form number (if applicable): Form AD – 1047 (Part of MOU)

b) number of respondents: 600

c) number of responses annually per respondent: 1

d) total annual responses (columns c x d): 600

e) estimated hours per response: 2 hours

f) total annual burden hours (columns e x f): 1,200

The record keeping requirements associated with receiving cost-share payments and others would be maintained as normal business practices and they will have no burden impact.

The average hourly rate for the respondents is \$12.00. The respondent's annual cost burden associated with this information collection is \$464,400(38,700 x \$12.00).

13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start up cost component annualized of its expected useful life; and (b) a total operation and maintenance and purchase of services component.

There is no capital, startup or ongoing operation/maintenance costs associated with this information collection to respondents or record keepers.

14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

The total estimated annual cost to the Federal government for program administration is \$599,692.

The IT support (technical labor and computer equipments) to support BCAP will be approximately \$50,000 annually.

To process an AD-245 through all its steps will take 30 minutes.
(25,000 AD-245's x 30 minutes times \$18.22) = \$227,750.

Paper, storage, and dissemination of data: \$1,750.
(25,000 forms times \$.07 per form: AD-245 page 1
and page 2 [5,000 times 4]).

Program administration:

Average PA salary at GS-5 step 5 (\$30,261) and
GS-7 Step 5 (\$37,481) = \$33,871 or 16.28/hour.

Average CED salary at GS9 Step 5 (\$45,848) and GS 11 Step 5
(\$50,489) = \$20.16/hour.

Average for County Office = \$18.22

BCAP Program Manager: GS-12 step 5 salary at \$38.53/HHr x 2,400 (600x4) = \$92,442.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

This is a new information collection for the BCAP.

16. For collections of information whose results are planned to be published, outline plans tabulation and publication.

A summary of total annual payments to and tons of biomass delivered by eligible biomass owners according to geographic distribution will be published. CHST Qualified biomass conversion facility information will be made public by FSA County Offices and the FSA website.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reason that display would be inappropriate.

We are seeking approval to not display the OMB expiration date on the forms associated with this information collection.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act."

USDA is able to certify compliance with all provision under Item 19 of OMB Form 83-1.

19. How is this information collection related to the Customer County Office? Will this information be part of their one-stop shopping?

Eligible biomass owners will continue or establish a relationship with FSA County Offices administratively responsible for the geographic location where the renewable biomass was harvested.