

Supporting Statement
Advanced Biofuel Payment Program
0570-0057

A. Justification

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

The Advanced Biofuel Payment Program (the Program) 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.

The 2008 Farm Bill authorizes funding for the Program for fiscal years 2009 through 2012. On June 12, 2009 the Agency issued a Notice of Contract Proposal (NOCP) that authorized \$30 million in fiscal year 2009 funding for the Program. On September 30, 2009 the application window for FY 2009 funds under the authority of this NOCP expired. During this application window, funds were awarded to 160 producers of Advanced Biofuels and payments to these producers have been allocated. However, there are remaining fiscal year 2009 funds authorized by the NOCP that are available to be allocated to the 160 producers determined to be eligible for participation in the program. The Agency is announcing an additional payment application window for advanced biofuels produced from October 1, 2008 through September 2009 under the criteria established in the prior NOCP. Eligible producers are required to submit additional information in order to be eligible for this additional payment from these remaining unobligated fiscal year 2009 funds.

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

Advanced biofuel producers who participated in the Program enrolled 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 was used by the Agency to determine whether the advanced biofuel producer was eligible to participate in the Program and whether the advanced biofuel being produced was eligible for payments under the Program.

Once an advanced biofuel producer was approved for participation in the Program, the producer and the Agency entered into a contract (form RD 9005-2). Once the contract was signed, the advanced biofuel producer submitted a payment request (form RD-9005-3) after September 30, 2009. The information in the payment request forms was used by the Agency to determine payments to the advanced biofuel producers.

Of the 160 producers approved, the Agency entered into contracts with 148 of these 160 producers. Of these 148 producers, only 8 did not submit payment requests. The reporting requirements for these 160 producers to receive additional payment from the remaining fiscal year 2009 funds depends on whether the producer (1) signed and contract and submit a payment request, (2) signed a contract, but did not submit a payment request, or (3) did not sign a contract (and, therefore, also did not submit a payment request).

- Producers who signed a contract and submitted a payment request must acknowledge, in writing, that receiving payment from the remaining fiscal year 2009 funds is a one-time payment.
- Producers who signed a contract, but did not submit a payment request, must submit form RD 9005-3, including documentation verifying the actual amount of advanced biofuel produced in fiscal year 2009, and SF-3881, "Electronic Funds Transfer Payment Enrollment Form."
- Producers determined by the Agency to be eligible, but who did not sign a contract with the Agency, must submit form RD 9005-2, form RD 9005-3, including documentation verifying the actual amount of advanced biofuel produced in fiscal year 2009, and SF-3881, "Electronic Funds Transfer Payment Enrollment Form."

REPORTING REQUIREMENTS - FORMS

Forms and Submission Information (Section IV)

Form RD 9005-2, "Advanced Biofuel Payment Program Contract" (producers determined to be eligible but who did not previously sign a contract for fiscal year 2009)

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" (all eligible producers except those that have previously submitted this form for fiscal year 2009)

Once the Eligible Advanced Biofuel Producer has entered into a valid Contract with the Agency, participating advanced biofuel producers must submit a payment request in order to receive a payment under the Program. This form will be used by the Advanced Biofuel Producer to provide information on the types and quantities of Advanced Biofuels produced and on the types and quantities of renewable feedstock used to produce those Advanced Biofuels in fiscal year 2009.

After the 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 from the remaining fiscal year 2009 funds.

SF-3881, "Electronic Funds Transfer Payment Enrollment Form" (all eligible producers except those that have previously submitted this form for fiscal year 2009). Producers who did not previously submit a payment form must also submit this form in order to receive payment, because payments under this program are made using direct deposit.

REPORTING REQUIREMENTS - NO FORMS

Acknowledgement Letter

Eligible Advanced Biofuel Producers who received payments in fiscal year 2009 will be required acknowledge to the Agency that payment from the remaining fiscal year 2009 funds for this program is a one-time occurrence. This acknowledgement is being requested to ensure there is no misunderstanding as to the nature of this payment.

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.

Payments will be processed electronically and deposited directly into the producers banking account.

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.

Forms used for this program were developed by reviewing a very similar program (Bioenergy 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 did not have an adverse impact on 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.

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. The information collection requirements were required once for the full fiscal year.
- 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 requested an emergency processing request due to the direction of the President's May 5, 2009, "Biofuels and Rural Economic Development" memorandum. This memorandum requested 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 was embedded in the Notice of Contract Proposal (NOCP), which was published in the Federal Register on June 12, 2009. No comments were received.

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.

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.

The burden to Advanced Biofuel Producers for receiving payments from the remaining fiscal year 2009 funds are associated with preparing acknowledgement letters, signing contracts, and submitting payment requests. These burdens, which are not applicable to all 160 Advanced Biofuel Producers determined eligible by the Agency to participate in the program in fiscal year 2009, are summarized in the following table.

Burden Item	Estimated Annual Burden
Number of respondents:	160
Total annual responses:	195
Number of hours per response:	0.46
Total hours:	90
Cost per hour:	\$60
Total annual cost:	\$5,400

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

\$55,268. The breakdown of cost to the Government by activity is as follows:

Allocation of Federal Government Costs

Activity	Estimated Annual Burden
Determine producer eligibility	\$0
Review contract forms	\$246
Process payment applications	\$1,640
Determine payment application eligibility (e.g., fuel eligibility)	\$4,920
Determine additional payment amounts	\$492
Review succession requests	\$0
Appeals	\$656
Conduct site visits	\$6,560
Total	\$14,514

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

The number of eligible applicants was 160 of which 148 have signed the contract. Of these 148, 140 submitted their request for funds. There 1 appeal pending.

The NOCP expired September 30, 2009. While no further applications for participation will be submitted by the producers, producers who were determined to be eligible, but who did not sign a contract and/or did not submit a payment request, would now have the opportunity to do so in order to receive payment from the remaining fiscal year 2009 funds. For such producers, the Agency would conduct site visits and verify information provided by this set of producers on form RD 9005-3, Request for Funds.

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.