

SUPPORTING STATEMENT FOR FORM EIA-22M
Monthly Biodiesel Production Survey
OMB No. 1905-0207

INTRODUCTION

The U. S. Energy Information Administration (EIA) of the U.S. Department of Energy (DOE) requests approval from the Office of Management and Budget (OMB) for a three-year extension with no change for the Form EIA-22M, *Monthly Biodiesel Production Survey*. This report is mandatory and required pursuant to the authority granted to the Department of Energy (DOE) by the Federal Energy Information Administration Act of 1974 (Public Law 93-275).

The purpose of the survey is to collect information from biodiesel producers regarding the following:

- Plant location, capacity, and operating status
- Biodiesel and co-product production
- Inputs to production
- Sales for end-use and resale
- Sales Revenue
- Biodiesel stocks

An announcement regarding the biodiesel production survey was published in the Federal Register notice Volume 76 FR 10977 dated May 5, 2011. EIA is proposing no changes to the survey.

The information collection proposed in this supporting statement has been reviewed in light of applicable information quality guidelines. It has been determined that the information would be collected, maintained, and used in a manner consistent with the OMB, DOE, and EIA information quality guidelines.

A. JUSTIFICATION

1. Legal Authority

The following provisions provide the authority for this data collection:

15 U.S.C. §772(b), of the Federal Energy Administration Act of 1974 (FEA Act), Public Law 93-275, outlines the types of individuals subject to the information collection authority delegated to the [Secretary] and the general parameters of the type of data which can be required. Section 772(b) states:

“All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the [Secretary] such information and periodic reports, records, documents, and other data relating to the purposes of this Act, including full identification of all data and projections as to source, time, and methodology of development, as the [Secretary] may prescribe by regulation or order as necessary

or appropriate for the exercise of functions under the Act.”

The functions of the FEA Act are set forth in 15 U.S.C. §764(b), of the FEA Act, which states that the Administrator shall, to the extent he is authorized by Section 764(a) of the FEA Act,

“(2) assess the adequacy of energy resources to meet demands in the immediate and longer range future for all sectors of the economy and for the general public;...

(4) develop plans and programs for dealing with energy production shortages;

(5) promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

(6) assure that energy programs are designed and implemented in a fair and efficient manner so as to minimize hardship and inequity while assuring that the priority needs of the Nation are met;... ”

(9) collect, evaluate, assemble, and analyze energy information on reserves, production, demand, and related economic data;...

As the authority for invoking Section 764(b) above, 15 U.S.C. §764(a), of the FEA Act in turn states:

“Subject to the provisions and procedures set forth in this Act, the [Secretary] shall be responsible for such actions as are taken to assure that adequate provision is made to meet the energy needs of the Nation. To that end, he shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing, and allocation of all forms of energy as are appropriate in connection with only those authorities or functions:

(1) specifically transferred to or vested in him by or pursuant to this Act;...

(3) otherwise specifically vested in the Administrator by the Congress.”

Additional authority for this information collection is provided by 15 U.S.C. §790a of the FEA Act, which states that the Administrator:

“...[Shall] establish a National Energy Information System...[which] shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption...

(b) ...the System shall contain such energy information as is necessary to carry out the Administration's statistical and forecasting activities..., and such energy information as is required to define and permit analysis of-

(1) the institutional structure of the energy supply system, including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

(2) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as may be appropriate for the purposes of this Act;

(3) the sensitivity of energy resource reserves, exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources; . . .

(5) industrial, labor, and regional impacts of changes and patterns of energy supply and consumption...”

Section 503, of the Energy Policy Act of 1992, Pub. L. No. 102-486 (EPACT1992), (42 U.S.C. § 13253), directs DOE to estimate consumption of alternative and replacement fuels annually. Since 1994, EIA has published replacement fuel consumption data annually in *Alternatives to Traditional Transportation Fuels*.¹ Biodiesel consumption (estimated by EIA based on secondary sources) has been included since 2000.

The Energy Policy Act of 2005 (EPACT 2005), Pub. L. No. 109-058, (42 U.S.C. § 15801) specifies in greater detail how EIA should monitor biodiesel. Section 42 U.S.C. § 7135(m) (1) states:

“In order to improve the ability to evaluate the effectiveness of the Nation’s renewable fuels mandate, the [Administrator] shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including each of the following:”

- (A) The quantity of renewable fuels produced
- (B) The quantity of renewable fuels blended
- (C) The quantity of renewable fuels imported
- (D) The quantity of renewable fuels demanded
- (E) Market price data
- (F) Such other analyses or evaluations as the Administrator finds necessary to achieve the purposes of this section.

42 U.S.C. § 7135(m)(2) also provides:

“The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) through (F) of paragraph (1), for the 5 years prior to implementation of this subsection.”

¹http://www.eia.gov/renewable/alternative_transport_vehicles/index.cfm

2. Needs for and Uses of the Data

The purpose of the Form EIA-22M is to collect data from biodiesel producers in order to meet EIA's Congressional mandate and energy stakeholders' and users' needs. Presently, there is no information source for all of the items listed above in Section 1508 for the biodiesel industry. In addition to fulfilling the Congressional mandate, this information is crucial for making informed policy decisions in the growing renewable fuels market. Environmental and National security concerns have been raised across the Government in the transportation fuels industry, with biodiesel seen as a possible replacement for diesel fuel that is currently produced from imported petroleum. Information collected through this survey would be widely used by Federal and State agencies, industry and financial analysts, environmental groups, and the general public to monitor changes in the renewable fuels sector, and by the Congress to inform legislative debate.

Section 3A of the form collects B100 (pure biodiesel) production, stock changes, and sales. This enables EIA to provide biodiesel data consistent with currently published production and distribution data for ethanol and all other transportation fuels.

Data on co-products of biodiesel production, collected in Section 3B, enter into the Annual Energy Outlook's (AEO) projection of biodiesel use, which is based on a comparison of the cost of biodiesel and the cost of petroleum diesel. Glycerol from biodiesel production is assumed to offset part of the biodiesel production cost, resulting in a lower net cost than if glycerol were not considered. Data on biodiesel co-products other than glycerol are not currently included in the AEO analysis. Survey responses will be used to determine if the biodiesel industry is producing substantial quantities of other co-products and if the analysis should be extended to include them. The quantity of co-products from biodiesel production also impacts EIA's estimate of the balance of energy production and consumption in the *Monthly Energy Review*, *Annual Energy Review*, and the *AEO*. In order to balance inputs and outputs, a term called "Losses and Co-Products" is calculated. For policy analysis, the survey responses to questions on glycerol and other co-product production will enable EIA to accurately split co-products from energy lost in production.

Inputs to biodiesel production, including the type and amount of feedstocks, are data collected Section 3C. They will be used in developing EIA's energy balance for renewable energy, to analyze the economics of biodiesel production and consumption, and by EIA forecasters to develop the sales (consumption) forecast. Among other uses, the forecast will be used by the Environmental Protection Agency (EPA) to develop its annual Renewable Fuel Standard.

In Section 3, EIA collects information on first sales of biodiesel from the producer. Sales volumes and revenue from sales, of biodiesel and biodiesel blends, will be identified according to whether or not certain Federal tax credits were taken by the producer. The purpose of collecting volume and revenue data is to enable EIA to estimate a "plant gate" price which biodiesel producers receive for their product. In some circumstances the biodiesel producer claims the tax credits and in other circumstances the biodiesel purchaser claims the tax credits. It is necessary to isolate production with and without the credit to get consistent prices both with and without credits claimed.

Information on biodiesel blending and sales for resale and end-use also collected in Section 3, is used to monitor to what degree producers are marketing B100 for blending downstream (B100 is rarely used in

vehicles), as well as to determine the sales (revenue) price of pure biodiesel (B100) with and without tax credits. Market price and quantities blended are required by Section 1508 of EPACT2005. By isolating the B98-B100 Sales (revenue), it is possible to compute an accurate average sales price of B100 (the small percentage of petroleum diesel in these blends will not affect the calculation of a reliable B100 “plant gate” price). Information on petroleum diesel contained in biodiesel blend categories enables EIA to refine exactly the amount of biodiesel in each category.

Because EPACT Section 1508 is focused on renewable motor vehicle fuels, Section 3 also asks for end-use sales (sales from producers directly to end users) to be broken out into their final use.

It should be noted that EIA and EPA use the word “sales” differently. On Form EIA-22M, “sales” refers to first, or producer, sales. In the EPA’s Renewable Fuels Standard rule, “sales” refers to final consumption: i.e., Sales = production + imports – exports + stock changes.

Using information reported on Form EIA-22M, EIA publishes monthly reports providing national, regional, and, if not limited by confidentiality provisions, state data on the following: plant location, capacity, and operating status; biodiesel and co-product production; feedstock inputs; sales volume; revenue; and monthly stock (inventory) information. The data collected is also used to improve the forecast of biodiesel production and consumption in future issues of the *AEO*.

EPA’s Use of Biodiesel Production Data

Based upon FRL-8742-5 Vol. 73, No. 226, p. 70643 and discussions with EPA, the information being collected on the EIA-22 survey is appropriate for developing the biodiesel information EPA requires to set annual Renewable Fuel Standards (RFS). What EPA requires is *projections* of biodiesel and renewable diesel *sales* by *feedstock*. EIA collects renewable diesel production from refineries on the EIA-810, “Monthly Refinery Report”. At this time, the EIA-22M is the only known source of renewable diesel sales.

The EIA-22M survey provides *historical* biodiesel *production*. To convert to sales, the following calculation will be used:

$$\text{Sales} = \text{production} + \text{imports} - \text{exports} + \text{stock changes.}$$

The stock changes in the above equation should be total stock changes throughout the biodiesel supply system. The EIA-22M collects data on stock changes only at the producer. If blender stock changes of biodiesel and renewable diesel are to be tracked, it will be on surveys that monitor the distribution of biodiesel downstream from the producer. No EIA survey collects data on imports or exports of renewable diesel or biodiesel—importers and exporters of biodiesel would not necessarily be biodiesel producers, so asking producers for their imports and exports would be an unnecessary reporting burden.

One other point regarding EPA requirements of EIA is that EPA may require sales forecasts excluding Alaska. Since the EIA-22M collects information by State, EIA-22M provides appropriate inputs to the forecast to meet this requirement, unless there is a confidentiality issue.

Aggregate statistics, based on the Form EIA-22M, is published monthly and used in the production of several other EIA information products. The EIA-22M data is used:

- (1) to develop and make available to the Congress, the States, other government agencies and the public a timely and accurate quantified assessment of current biodiesel production and market data;
- (2) as input to other EIA statistical information products, such as the *Monthly Energy Review* and the *State Energy Data System*;
- (3) to provide input to supply, demand, and price forecasting models, such as the *Short-Term Energy Outlook (STEO)*, and the *Annual Energy Outlook*; and
- (4) to respond to Congressional, inter-Departmental and inter-Agency requests for analysis of the biodiesel industry in the United States and analysis of biodiesel policy and regulatory issues.

EIA's renewable statistics are also published in newspapers, trade journals, and technical reports as well as cited and republished in reports by consulting firms, financial institutions, and numerous others.

A3. Efforts to Utilize Technology to Reduce Burden on Respondents

EIA instituted an internet-based data collection system for the EIA-22M that allows respondents to submit data electronically. This reduces the respondents' burden of completing and mailing paper survey forms. A significant feature of the web-based system is that some data fields are pre-populated with information from the previous month, so that the respondent needs only to verify and make updates to the pre-filled information, rather than entering new information. For example, plant name, location and capacity will be pre-filled into the form and only changed if the respondent deems it necessary. The electronic system also provides online instructions, drop-down menus, and automatic data validation (editing) features that significantly reduce the time needed to complete the form. The internet data collection system also issues automatic reminder notices and sign-on instructions, which are intended to make the system as user friendly as possible.

EIA encourages all its EIA-22M respondents to use the electronic system. If a respondent does not have internet access, they may fill out a paper form and respond by fax or e-mail.

A4. Efforts to Identify Duplication

EIA has conducted a review which indicates that while a few other surveys of biodiesel producers are conducted, including some under support from other parts of the Federal Government, no other survey collects complete monthly data on plant location, capacity and operating status, biodiesel and co-product production, inputs to production, sales for end use and resale, revenue, and end of month stocks on a regional and national basis. Other surveys collect only a small subset of the information collected by EIA, or information that is similar to what EIA proposes, but not exactly the same. Some of the other sources of data are not collected in the same time frame as the EIA proposal. Because EIA is unable to verify the identity of respondents to other entities' surveys, it is impossible to accurately integrate data

from other surveys of biodiesel producers with EIA's data. Any analyses resulting from an integration of multi-source data would be necessarily unreliable.

For example, the EPA requires that all producers² of renewable fuels report their production to them under authority from EPCRA2005 on the forms entitled Renewable Fuel Standard Compliance Report Forms. The EPA program is designed to track Renewable Identification Numbers (RINs) that are generated by producers, and not specifically to track market activities such as production, sales, etc. The EPA data are collected on a quarterly basis, two months after the end of the quarter. The National Biodiesel Board (NBB) maintains a plant list of its members. The information collected by the NBB includes plant location, nameplate capacity and primary feedstocks used. However, these data are not collected via a statistical survey, nor are they complete, as not all biodiesel producers are members of the NBB. This source also does not always track changes in feedstocks and/or capacities on a timely basis.

A5. Comparisons with Similar Data

The EPA RINs data can be used as a basis to estimate production because the generated RINs are based on production volumes. Only the EIA-22M collects complete inputs and production from each producer. There is no other survey that collects data on capacity and operating status, co-product production, catalyst usage, sales for end use and resale, revenue, and stocks. All of these data items are needed by EIA to fully respond to the mandate in EPCRA2005, as well as to satisfy public requests for biodiesel information and provide data that can be used for analysis and forecasting.

A6. Provisions for Reducing Burden on Small Business

The small business response burden for this survey is expected to be minimal since most of the data requested are necessary for normal business operations. Also, some data items are already reported to other entities, as noted above.

Respondents are given flexibility concerning how Form EIA-22M data are to be submitted to EIA. Small businesses can use the internet data collection system that reduces reporting burden.

A7. Results of Collecting Data Less Frequently

Section 1508 of EPCRA2005 mandates the monthly collection of the data. Due to the volatility and rapidly changing nature of the biodiesel industry, it is important to monitor the progress of biodiesel production on a monthly basis.

² All producers in the lower 48 states are required to report on this form.

A8. Special Circumstances

There are no special circumstances that would require the *Monthly Survey of Biodiesel Production* to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5.

A9. Summary of Consultations Outside the Agency

A request for comments from interested persons was solicited in a Federal Register Notice that proposed a three-year extension with no changes to the previously approved collection. The notice was published on May 5, 2011 in the *Federal Register*, (76 FR 25683). No comments were received.

A10. Remuneration: No payment or gift will be given to respondents for completing the survey.

A11. Provisions for Disclosure of Information

The information reported on form EIA-22M will be protected and not disclosed to the public to the extent that it satisfies the criteria for exemption under the Freedom of Information Act (FOIA), 5 U.S.C. §552, the Department of Energy regulations, 10 C.F.R. §1004.11, implementing the FOIA, and the Trade Secrets Act, 18 U.S.C. §1905.

The Federal Energy Administration Act requires EIA to provide company-specific data to other Federal agencies when requested for official use. The information reported on this form may also be made available, upon request, to another component of the Department of Energy (DOE); to any Committee of Congress, the Government Accountability Office, or other Federal agencies authorized by law to receive such information. A court of competent jurisdiction may obtain this information in response to an order. The information may be used for any nonstatistical purposes such as administrative, regulatory, law enforcement, or adjudicatory purposes.

Disclosure limitation procedures are applied to the statistical data published from EIA-22M survey information to ensure that the risk of disclosure of identifiable information is very small.

A12. Justification for Sensitive Questions

No sensitive questions are asked on the *Monthly Survey of Biodiesel Production*.

A13. Estimate of Respondent Burden Hours and Cost

The total average monthly respondent burden for Form EIA-22M is approximately 450 hours, calculated as follows:

Approximately 150 Biodiesel Producers (respondents) x 3 hours per respondent = 450 hours per month

Total Annual Burden = 450 hours per month x 12 months = 5400 hours

A14. Annual Reporting and Record keeping - Cost Burden to Respondents

The total annual cost for all respondents is approximately \$344,100, calculated as \$62* per hour x 5400 hours = \$334,800.

*An average cost per hour of \$62 is used because that is the average loaded (salary plus benefits) cost for an EIA employee. EIA assumes that the survey respondent workforce completing surveys for EIA is comparable with the EIA workforce.

A15. Estimate of Costs to the Federal Government

The annual cost to the Government for EIA-22M is estimated at \$217,000. The estimated costs for EIA-22M include funds for data collection, follow-up data processing, non-response adjustment/imputation, survey documentation, data analysis, and preparation of data reports.

A16. Changes in Respondent Burden

The EIA-22M survey will not incur any increase in respondent burden.

A17. Schedule for Collecting and Publishing Data

The results of the EIA-22M will be published by EIA in reports along with additional data obtained through other EPACT2005 data collection programs. The time schedule for data collection and related analysis activities for the 2012 data year (from the EIA-22M with February as a monthly example) is summarized below.

Schedule for Data Collection and Analysis for EIA-22M

| <u>Activity</u> | <u>Estimated Completion Date</u> |
|---|----------------------------------|
| Open Internet Data Collection System | February 2, 2012 |
| Survey Due Back | February 23, 2012 |
| Begin Follow-up Contact with Respondents | February 23, 2012 |
| End Follow-up Contact with Respondents | March 19, 2012 |
| Complete Data Collection | March 19, 2012 |
| Data Analysis and Preliminary Data Report | March 26, 2012 |
| Publish Survey Results | April 9, 2012 |

A18. Expiration Date

The expiration date will be displayed on the form.

A19. Certification Statement

There are no exceptions to the Certification Statement requirement.