

Code	Conservation practice title
391 .....	Riparian Forest Buffer (ac).
390 .....	Riparian Herbaceous Cover (ac).
555 .....	Rock Barrier (ft).
558 .....	Roof Runoff Structure (no).
557 .....	Row Arrangement (ac).
570 .....	Runoff Management System (no & ac).
610 .....	Salinity and Sodic Soil Management (ac).
350 .....	Sediment Basin (no).
646 .....	Shallow Water Development and Management (ac).
381 .....	Silvopasture Establishment (ac).
527 .....	Sinkhole and Sinkhole Area Treatment (no).
632 .....	Solid/Liquid Waste Separation Facility.
572 .....	Spoil Spreading (ac).
574 .....	Spring Development (no).
580 .....	Streambank and Shoreline Protection (ft).
578 .....	Stream Crossing (no).
395 .....	Stream Habitat Improvement and Management (ac).
585 .....	Stripcropping (ac).
587 .....	Structure for Water Control (no).
606 .....	Subsurface Drain (ft).
607 .....	Surface Drainage, Field Ditch (ft).
608 .....	Surface Drainage, Main or Lateral (ft).
609 .....	Surface Roughening (ac).
600 .....	Terrace (ft, m).
612 .....	Tree/Shrub Establishment (ac).
490 .....	Tree/Shrub Site Preparation (ac).
660 .....	Tree/Shrub Pruning (ac).
620 .....	Underground Outlet (ft).
645 .....	Upland Wildlife Habitat Management (ac).
635 .....	Vegetated Treatment Area (ac).
601 .....	Vegetative Barrier (ft).
630 .....	Vertical Drain (no).
367 .....	Waste Facility Cover (no).
313 .....	Waste Storage Facility (no).
629 .....	Waste Treatment.
359 .....	Waste Treatment Lagoon (no).
633 .....	Waste Utilization (ac).
636 .....	Water Harvesting Catchment (no).
614 .....	Watering Facility (no).
638 .....	Water and Sediment Control Basin (no).
640 .....	Waterspreading (ac).
642 .....	Water Well (no).
351 .....	Well Decommissioning (no).
355 .....	Well Water Testing (no).
658 .....	Wetland Creation (ac).
659 .....	Wetland Enhancement (ac).
657 .....	Wetland Restoration (ac).
644 .....	Wetland Wildlife Habitat Management (ac).
380 .....	Windbreak/Shelterbelt Establishment (ft).
650 .....	Windbreak/Shelterbelt Renovation (ft).

[FR Doc. E9-13870 Filed 6-11-09; 8:45 am]  
 BILLING CODE 3410-16-P

**DEPARTMENT OF AGRICULTURE**

**Rural Business-Cooperative Service**

**Notice of Contract Proposal (NOCP) for Payments to Eligible Advanced Biofuel Producers**

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

**ACTION:** Notice.

**SUMMARY:** This Notice announces the intention of the U.S. Department of Agriculture to enter into Contracts to make payments to Eligible Advanced

Biofuel Producers to support and ensure an expanding production of Advanced Biofuels. This program is authorized under Title IX, Section 9001, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-234). In addition, this program is intended to support Federal policy calling for greater production and use of Advanced Biofuels. The Agency will authorize up to \$30 million in funding for this program for fiscal year (FY) 2009.

**DATES:** Applications for participating in this program for Fiscal Year 2009 must be received between June 12, 2009 and August 11, 2009.

The comment period for information collection under the Paperwork Reduction Act of 1995 continues

through August 11, 2009. Comments on the paper work burden must be received by this date to be assured of consideration.

**ADDRESSES:** Application materials may be obtained by contacting the USDA, Rural Development State Office, Renewable Energy Coordinator. Submit applications to the Rural Development State Office in the State in which the applicant's principal office is located.

**USDA Rural Development State Renewable Energy Coordinators**

**Note:** Telephone numbers listed are not toll-free.

**Alabama**

Quinton Harris, USDA Rural Development, Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106-3683. (334) 279-3623. [Quinton.Harris@al.usda.gov](mailto:Quinton.Harris@al.usda.gov).

**Alaska**

Dean Stewart, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645-6539. (907) 761-7722. [dean.stewart@ak.usda.gov](mailto:dean.stewart@ak.usda.gov).

**Arizona**

Alan Watt, USDA Rural Development, 230 North First Avenue, Suite 206, Phoenix, AZ 85003-1706. (602) 280-8769. [Alan.Watt@az.usda.gov](mailto:Alan.Watt@az.usda.gov).

**Arkansas**

Tim Smith, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201-3225. (501) 301-3280. [Tim.Smith@ar.usda.gov](mailto:Tim.Smith@ar.usda.gov).

**California**

Philip Brown, USDA Rural Development, 430 G Street, #4169, Davis, CA 95616. (530) 792-5811. [Philip.brown@ca.usda.gov](mailto:Philip.brown@ca.usda.gov).

**Colorado**

April Dahlager, USDA Rural Development, 655 Parfet Street, Room E-100, Lakewood, CO 80215. (720) 544-2909. [april.dahlager@co.usda.gov](mailto:april.dahlager@co.usda.gov).

**Connecticut**

Charles W. Dubuc, USDA Rural Development, 451 West Street, Suite 2, Amherst, MA 01002. (401) 826-0842, X 306. [Charles.Dubuc@ma.usda.gov](mailto:Charles.Dubuc@ma.usda.gov).

**Delaware**

Bruce Weaver, USDA Rural Development, 1221 College Park Drive, Suite 200, Dover, DE 19904. (302) 857-3626. [Bruce.Weaver@de.usda.gov](mailto:Bruce.Weaver@de.usda.gov).

**Federated States of Micronesia**

Tim O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waiianuenue Avenue, Hilo, HI 96720. (808) 933-8313. [Tim.Oconnell@hi.usda.gov](mailto:Tim.Oconnell@hi.usda.gov).

**Florida**

Joe Mueller, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606. (352) 338-3482. [joe.mueller@fl.usda.gov](mailto:joe.mueller@fl.usda.gov).

**Georgia**

J. Craig Scroggs, USDA Rural Development, 111 E. Spring St., Suite B, Monroe, GA 30655. Phone 770-267-1413 ext. 113. [craig.scroggs@ga.usda.gov](mailto:craig.scroggs@ga.usda.gov).

**Guam**

Tim O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waiianuenue Avenue, Hilo, HI 96720. (808) 933-8313. [Tim.Oconnell@hi.usda.gov](mailto:Tim.Oconnell@hi.usda.gov).

**Hawaii**

Tim O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waiianuenue Avenue, Hilo, HI 96720. (808) 933-8313. [Tim.Oconnell@hi.usda.gov](mailto:Tim.Oconnell@hi.usda.gov).

**Idaho**

Brian Buch, USDA Rural Development, 9173 W. Barnes Drive, Suite A1, Boise, ID 83709. (208) 378-5623. [Brian.Buch@id.usda.gov](mailto:Brian.Buch@id.usda.gov).

**Illinois**

Molly Hammond, USDA Rural Development, 2118 West Park Court, Suite A, Champaign, IL 61821. (217) 403-6210. [Molly.Hammond@il.usda.gov](mailto:Molly.Hammond@il.usda.gov).

**Indiana**

Jerry Hay, USDA Rural Development, 2411 N. 1250 W., Deputy, IN 47230. (812) 873-1100. [Jerry.Hay@in.usda.gov](mailto:Jerry.Hay@in.usda.gov).

**Iowa**

Teresa Bomhoff, USDA Rural Development, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309. (515) 284-4447. [teresa.bomhoff@ia.usda.gov](mailto:teresa.bomhoff@ia.usda.gov).

**Kansas**

David Kramer, USDA Rural Development, 1303 SW First American Place, Suite 100, Topeka, KS 66604-4040. (785) 271-2744. [david.kramer@ks.usda.gov](mailto:david.kramer@ks.usda.gov).

**Kentucky**

Scott Maas, USDA Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503. (859) 224-7435. [scott.maas@ky.usda.gov](mailto:scott.maas@ky.usda.gov).

**Louisiana**

Kevin Boone, USDA Rural Development, 905 Jefferson Street, Suite 320, Lafayette, LA 70501. (337) 262-6601, Ext. 133. [Kevin.Boone@la.usda.gov](mailto:Kevin.Boone@la.usda.gov).

**Maine**

John F. Sheehan, USDA Rural Development, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402-0405. (207) 990-9168. [john.sheehan@me.usda.gov](mailto:john.sheehan@me.usda.gov).

**Maryland**

Bruce Weaver, USDA Rural Development, 1221 College Park Drive,

Suite 200, Dover, DE 19904. (302) 857-3626. [Bruce.Weaver@de.usda.gov](mailto:Bruce.Weaver@de.usda.gov).

**Massachusetts**

Charles W. Dubuc, USDA Rural Development, 451 West Street, Suite 2, Amherst, MA 01002. (401) 826-0842 X 306. [Charles.Dubuc@ma.usda.gov](mailto:Charles.Dubuc@ma.usda.gov).

**Michigan**

Traci J. Smith, USDA Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823. (517) 324-5157. [Traci.Smith@mi.usda.gov](mailto:Traci.Smith@mi.usda.gov).

**Minnesota**

Lisa L. Noty, USDA Rural Development, 1400 West Main Street, Albert Lea, MN 56007. (507) 373-7960 Ext. 120. [lisa.noty@mn.usda.gov](mailto:lisa.noty@mn.usda.gov).

**Mississippi**

G. Gary Jones, USDA Rural Development, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269. (601) 965-5457. [george.jones@ms.usda.gov](mailto:george.jones@ms.usda.gov).

**Missouri**

Matt Moore, USDA Rural Development, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203. (573) 876-9321. [matt.moore@mo.usda.gov](mailto:matt.moore@mo.usda.gov).

**Montana**

John Guthmiller, USDA Rural Development, 900 Technology Blvd., Unit 1, Suite B, P.O. Box 850, Bozeman, MT 59771. (406) 585-2540. [John.Guthmiller@mt.usda.gov](mailto:John.Guthmiller@mt.usda.gov).

**Nebraska**

Debra Yocum, USDA Rural Development, 100 Centennial Mall North, Room 152, Federal Building, Lincoln, NE 68508. (402) 437-5554. [Debra.Yocum@ne.usda.gov](mailto:Debra.Yocum@ne.usda.gov).

**Nevada**

Herb Shedd, USDA Rural Development, 1390 South Curry Street, Carson City, NV 89703. (775) 887-1222. [herb.shedd@nv.usda.gov](mailto:herb.shedd@nv.usda.gov).

**New Hampshire**

Cheryl Ducharme, USDA Rural Development, 89 Main Street, 3rd Floor, Montpelier, VT 05602. 802-828-6083. [cheryl.ducharme@vt.usda.gov](mailto:cheryl.ducharme@vt.usda.gov).

**New Jersey**

Victoria Fekete, USDA Rural Development, 8000 Midlantic Drive, 5th Floor North, Suite 500, Mt. Laurel, NJ 08054. (856) 787-7752. [Victoria.Fekete@nj.usda.gov](mailto:Victoria.Fekete@nj.usda.gov).

*New Mexico*

Jesse Bopp, USDA Rural Development, 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109. (505) 761-4952. [Jesse.bopp@nm.usda.gov](mailto:Jesse.bopp@nm.usda.gov).

*New York*

Thomas Hauryski, USDA Rural Development, 415 West Morris Street, Bath, NY 14810. (607) 776-7398 Ext. 132. [Thomas.Hauryski@ny.usda.gov](mailto:Thomas.Hauryski@ny.usda.gov).

*North Carolina*

David Thigpen, USDA Rural Development, 4405 Bland Rd. Suite 260, Raleigh, NC 27609. 919-873-2065. [David.Thigpen@nc.usda.gov](mailto:David.Thigpen@nc.usda.gov).

*North Dakota*

Dennis Rodin, USDA Rural Development, Federal Building, Room 208, 220 East Rosser Avenue, P.O. Box 1737, Bismarck, ND 58502-1737. (701) 530-2068. [Dennis.Rodin@nd.usda.gov](mailto:Dennis.Rodin@nd.usda.gov).

*Ohio*

Randy Monhemius, USDA Rural Development, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215-2418. (614) 255-2424. [Randy.Monhemius@oh.usda.gov](mailto:Randy.Monhemius@oh.usda.gov).

*Oklahoma*

Jody Harris, USDA Rural Development, 100 USDA, Suite 108, Stillwater, OK 74074-2654. (405) 742-1036. [Jody.harris@ok.usda.gov](mailto:Jody.harris@ok.usda.gov).

*Oregon*

Don Hollis, USDA Rural Development, 1229 SE Third Street, Suite A, Pendleton, OR 97801-4198. (541) 278-8049, Ext. 129. [Don.Hollis@or.usda.gov](mailto:Don.Hollis@or.usda.gov).

*Pennsylvania*

Bernard Linn, USDA Rural Development, One Credit Union Place, Suite 330, Harrisburg, PA 17110-2996. (717) 237-2182. [Bernard.Linn@pa.usda.gov](mailto:Bernard.Linn@pa.usda.gov).

*Puerto Rico*

Luis Garcia, USDA Rural Development, IBM Building, 654 Munoz Rivera Avenue, Suite 601, Hato Rey, PR 00918-6106. (787) 766-5091, Ext. 251. [Luis.Garcia@pr.usda.gov](mailto:Luis.Garcia@pr.usda.gov).

*Republic of Palau*

Tim O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waiianuenue Avenue, Hilo, HI 96720. (808) 933-8313. [Tim.Oconnell@hi.usda.gov](mailto:Tim.Oconnell@hi.usda.gov).

*Republic of the Marshall Islands*

Tim O'Connell, USDA Rural Development, Federal Building, Room

311, 154 Waiianuenue Avenue, Hilo, HI 96720. (808) 933-8313. [Tim.Oconnell@hi.usda.gov](mailto:Tim.Oconnell@hi.usda.gov).

*Rhode Island*

Charles W. Dubuc, USDA Rural Development, 451 West Street, Suite 2, Amherst, MA 01002. (401) 826-0842 X 306. [Charles.Dubuc@ma.usda.gov](mailto:Charles.Dubuc@ma.usda.gov).

*South Carolina*

Shannon Legree, USDA Rural Development, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201. (803) 253-3150. [Shannon.Legree@sc.usda.gov](mailto:Shannon.Legree@sc.usda.gov).

*South Dakota*

Douglas Roehl, USDA Rural Development, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350. (605) 352-1145. [doug.roehl@sd.usda.gov](mailto:doug.roehl@sd.usda.gov).

*Tennessee*

Will Dodson, USDA Rural Development, 3322 West End Avenue, Suite 300, Nashville, TN 37203-1084. (615) 783-1350. [will.dodson@tn.usda.gov](mailto:will.dodson@tn.usda.gov).

*Texas*

Daniel Torres, USDA Rural Development, Federal Building, Suite 102, 101 South Main Street, Temple, TX 76501. (254) 742-9756. [Daniel.Torres@tx.usda.gov](mailto:Daniel.Torres@tx.usda.gov).

*Utah*

Roger Koon, USDA Rural Development, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138. (801) 524-4301. [Roger.Koon@ut.usda.gov](mailto:Roger.Koon@ut.usda.gov).

*Vermont*

Cheryl Ducharme, USDA Rural Development, 89 Main Street, 3rd Floor, Montpelier, VT 05602. 802-828-6083. [cheryl.ducharme@vt.usda.gov](mailto:cheryl.ducharme@vt.usda.gov).

*Virginia*

Laurette Tucker, USDA Rural Development, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229. (804) 287-1594. [Laurette.Tucker@va.usda.gov](mailto:Laurette.Tucker@va.usda.gov).

*Virgin Islands*

Joe Mueller, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606. (352) 338-3482. [joe.mueller@fl.usda.gov](mailto:joe.mueller@fl.usda.gov).

*Washington*

Mary Traxler, USDA Rural Development, 1835 Black Lake Blvd. SW., Suite B, Olympia, WA 98512. (360) 704-7762. [Mary.Traxler@wa.usda.gov](mailto:Mary.Traxler@wa.usda.gov).

*West Virginia*

Richard E. Satterfield, USDA Rural Development, 75 High Street, Room 320, Morgantown, WV 26505-7500. (304) 284-4874. [Richard.Satterfield@wv.usda.gov](mailto:Richard.Satterfield@wv.usda.gov).

*Wisconsin*

Brenda Heinen, USDA Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481. (715) 345-7615, Ext. 139. [Brenda.Heinen@wi.usda.gov](mailto:Brenda.Heinen@wi.usda.gov).

*Wyoming*

Jon Crabtree, USDA Rural Development, Dick Cheney Federal Building, 100 East B Street, Room 1005, P.O. Box 11005, Casper, WY 82602. (307) 233-6719. [Jon.Crabtree@wy.usda.gov](mailto:Jon.Crabtree@wy.usda.gov).

**FOR FURTHER INFORMATION CONTACT:** For further information on this program, please contact the USDA Rural Development State Renewable Energy Coordinator for your respective State, as provided in the Addresses section of this Notice.

**SUPPLEMENTARY INFORMATION:****Presidential Directive**

On May 5, 2009, the President issued a Presidential Directive to Secretary of Agriculture Thomas 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)). 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 to biofuels producers to encourage production of next-generation biofuels from cellulosic biomass and other feedstocks

**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 these funds available under this Notice for payments to producers of advanced biofuels 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 this program 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, RBS is requesting comments from all interested individuals and organizations on a new information collection for the Advanced Biofuels Producer Payment Program. While this Notice requests comments on the information collection activities required for the Advanced Biofuels Producer Payment Program, in order to meet the time frames mandated by the Presidential Memorandum discussed above, RBS submitted the following information collection request to the Office of Management and Budget (OMB) under the emergency procedure in accordance with the Paperwork Reduction Act of 1995. As discussed above in the APA section, there is good cause to forgo any delay associated with the opportunity for advance public comment. The Advanced Biofuels Producer Payment Program will provide payments for the production of advanced biofuels.

Copies of all forms, regulations, and instructions referenced in this NOFA may be obtained from RBS. 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:* Advanced Biofuels Producer Payment Program.

*OMB Control Number:* New collection.

*Type of Request:* New.

*Abstract:* This information collection is needed to comply with section 9005 of Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101–8113), which was added by the Food, Conservation, and Energy Act of 2008.

Under this Notice, the Agency is providing payments to eligible producers of advanced biofuels to support and encourage the production of advanced biofuels. To meet the goals of this program, the Agency is requesting information from applicants including data regarding the production of advanced biofuels, feed stocks used, and the type quality of the advanced biofuels produced.

The collection of information is vital to the Agency to make wise decisions regarding the eligibility of Advanced Biofuels producers and their products in order to ensure compliance with the provisions of this Notice and to ensure that the payments are made to eligible producers of Advanced Biofuels. In summary, this collection of information is necessary in order to implement this program.

The following estimates are for the first year the program is in place.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 1 hour per response.

*Respondents:* Advanced Biofuels producers.

*Estimated Number of Respondents:* 300.

*Estimated Number of Responses per Respondent:* 6.9.

*Estimated Number of Responses:* 2,082.

*Estimated Total Annual Burden (Hours) on Respondents:* 1,856.

Copies of this information collection may 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 Paperwork Management Branch, Support Services Division, USDA, Rural Development, Stop 0742, 1400 Independence Ave., SW., Washington, DC 20250-0742. All responses to this Notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

#### Overview Information

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

*Contract Proposal Title.* Advanced Biofuels Producer Payment Program.

*Announcement Type.* Initial announcement.

*Contract Proposal Number.* FR-XXX-C-CC; OMB approval number is 0570-XXXX.

*Catalog of Federal Domestic Assistance (CFDA) Number.* The CFDA number for this Notice is 10.078.

*Dates.* The Advanced Biofuels Program Sign-up Period for Fiscal Year 2009 is June 12, 2009 and August 11, 2009.

*Availability of Notice.* This Notice is available on the USDA Rural Development Web site at <http://www.rurdev.usda.gov/rbs/buspp/9005Biofuels.htm>.

#### I. Funding Opportunity Description

*A. Purpose of the Program.* The purpose of this program is to support and ensure an expanding production of Advanced Biofuels by providing payments to Eligible Advanced Biofuel Producers. Implementing this program not only promotes the Agency's mission for promoting sustainable economic development in rural America, but is an important part of achieving the Administration's goals for increased biofuel production and use by providing economic incentives for the production of advanced biofuels.

*B. Statutory Authority.* This program is authorized under Title IX, Section 9001, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-234).

*C. Definition of Terms.* The following definitions are applicable to this Notice.

*Advanced biofuel.* Fuel derived from Renewable Biomass, other than corn kernel starch, to include:

- (i) Biofuel derived from cellulose, hemicellulose, or lignin;
- (ii) Biofuel derived from sugar and starch (other than Ethanol derived from corn kernel starch);
- (iii) Biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;
- (iv) Diesel-equivalent fuel derived from Renewable Biomass, including vegetable oil and animal fat;
- (v) Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from Renewable Biomass;
- (vi) Butanol or other Alcohols produced through the conversion of organic matter from Renewable Biomass; and
- (vi) Other fuel derived from cellulosic biomass.

*Advanced biofuel producer.* An individual or legal entity, including, but not limited to, a corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or non-profit entity that produces an Advanced Biofuel.

*Agency.* The Rural Business and Cooperative Service on behalf of the U.S. Department of Agriculture.

*Alcohol.* Anhydrous ethyl Alcohol manufactured in the United States and its territories and sold either:

- (i) For fuel use, rendered unfit for beverage use, produced at a Biorefinery and in a manner approved by ATF for the production of Alcohol for fuel; or
- (ii) As denatured Alcohol used by blenders and refiners and rendered unfit for beverage use.

*Alcohol producer.* An individual or legal entity, including, but not limited to, a corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or non-profit entity that is authorized by ATF to produce Alcohol.

*ATF.* The Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice.

*Base production.* The quantity of Eligible Advanced Biofuels produced at an Advanced Biofuel Biorefinery as determined by the Agency under paragraphs (1) through (3), as applicable. An Advanced Biofuel Biorefinery's Base Production cannot be transferred to another Advanced Biofuel Biorefinery.

(1) If the Biorefinery has been in existence for 12 months or more prior to June 12, 2009, the Biorefinery's Base

Production for FY 2009 will be equal to the actual amount of Biofuel produced over that 12-month period.

(2) If the Biorefinery has been in existence less than 12 months prior to June 12, 2009, the Biorefinery's Base Production for FY 2009 will be equal to the amount of production the biorefinery could produce if operated at the nameplate capacity for a full year times the startup/shakedown factor as determined by the Agency.

(3) If the Advanced Biofuel Biorefinery will begin producing after June 12, 2009, the Biorefinery's Base Production for FY 2009 will be equal to the quantity projected to be produced by the Biorefinery's producer as reported in Form RD 9005-1.

*Biodiesel.* A mono alkyl ester, manufactured in the United States and its territories, that meets the requirements of the appropriate American Society for Testing and Materials Standard (ASTM).

*Biofuel.* Fuel derived from Renewable Biomass.

*Biorefinery.* A facility (including equipment and processes) that converts Renewable Biomass into Biofuels and biobased products and may produce electricity.

*Certificate of Analysis.* A document approved by the Agency that certifies the quality and purity of the Advanced Biofuel being produced. The document must be from a qualified, independent third party.

*Contract.* The Advanced Biofuels Program Contract, or other form prescribed by the Agency.

*Eligible advanced biofuel producer.* A producer of Advanced Biofuels that meets all requirements for program payments.

*Eligible renewable biomass.* Renewable Biomass excluding corn kernel starch.

*Eligible renewable energy content.* That portion of an Advanced Biofuel's energy content derived from eligible Renewable Biomass feedstock. The energy content from any portion of the Biofuel, whether from, for example, blending with another fuel or a denaturant, that is derived from a non-Eligible Renewable Biomass feedstock (e.g., corn kernel starch) is not eligible for payment under this program.

*Ethanol.* Anhydrous ethyl Alcohol manufactured in the United States and its territories and sold either:

- (i) For fuel use, and which has been rendered unfit for beverage use and produced at a biofinery approved by the ATF for the production of Ethanol for fuel, or

- (ii) As denatured Ethanol used by blenders and energy refiners, which has been rendered unfit for beverage use.

*Ethanol producer.* An individual or legal entity, including but not limited to, a corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or non-profit entity that is authorized by ATF to produce ethanol.

*Fiscal Year (FY).* A 12-month period beginning each October 1 and ending September 30 of the following calendar year.

*Incremental production.* The quantity of Eligible Advanced Biofuel produced at an Advanced Biofuel Biorefinery that is in excess of that Biorefinery's Base Production, except that for Advanced Biofuel Biorefineries that begin producing Eligible Advanced Biofuels after June 12, 2009. For such Biorefineries, production in excess of Base Production, as determined under paragraph (3) under the definition of Base Production, will not be treated as Incremental Production.

*Larger producer.* Eligible producers with a refining capacity exceeding 150,000,000 gallons of Advanced Biofuel per year.

*Payment application.* Form RD 9005-3, "Advanced Biofuel Payment Program—Payment Request," which is required in order to receive payments under this program.

*Quarter.* The Federal fiscal time period for any fiscal year as follows:

- (i) 1st Quarter: October 1 through December 31;
- (ii) 2nd Quarter: January 1 through March 31;
- (iii) 3rd Quarter: April 1 through June 30; and
- (iv) 4th Quarter: July 1 through September 30.

*Renewable biomass.*

(i) Materials, pre-commercial thinnings, or invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that:

(A) Are byproducts of preventive treatments that are removed to reduce hazardous fuels; to reduce or contain disease or insect infestation; or to restore ecosystem health;

(B) Would not otherwise be used for higher-value products; and

(C) Are harvested in accordance with applicable law and land management plans and the requirements for old-growth maintenance, restoration, and management direction of paragraphs (e)(2), (e)(3), and (e)(4) and large-tree retention of paragraph (f) of section 102

of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

(ii) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including:

(A) Renewable plant material, including feed grains; other agricultural commodities; other plants and trees; and algae; and

(B) Waste material, including crop residue; other vegetative waste material (including wood waste and wood residues); animal waste and byproducts (including fats, oils, greases, and manure); and food waste and yard waste.

*Rural or rural area.* Any area of a State not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States, and the contiguous and adjacent urbanized area, and any area that has been determined to be "rural in character" by the Under Secretary for Rural Development, or as otherwise identified in this definition. In determining which census blocks in an urbanized area are not in a Rural Area, the Agency will exclude any cluster of census blocks that would otherwise be considered not in a Rural Area only because the cluster is adjacent to not more than two census blocks that are otherwise considered not in a Rural Area under this definition.

(i) For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self government, and legal powers set forth in a charter granted by the State.

(ii) For the Commonwealth of Puerto Rico, the island is considered rural and eligible for Business Programs assistance, except for the San Juan Census Designated Place (CDP) and any other CDP with greater than 50,000 inhabitants. CDPs with greater than 50,000 inhabitants, other than the San Juan CDP, may be determined to be eligible if they are "not urban in character." Any such requests must be forwarded to the National Office, Business and Industry Division, with supporting documentation as to why the area is "not urban in character" for review, analysis, and decision by the Administrator, Business and Cooperative Programs.

(iii) For the State of Hawaii, all areas within the State are considered rural and eligible for Business Programs

assistance, except for the Honolulu CDP within the County of Honolulu.

(iv) For the purpose of defining a Rural Area in the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, the Agency shall determine what constitutes Rural and Rural Area based on available population data.

(v) The determination that an area is "rural in character" under this definition will be to areas that are within:

(A) An urbanized area that has two points on its boundary that are at least 40 miles apart, which is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or the urbanized area of such a city or town; or

(B) An urbanized area contiguous and adjacent to a city or town of greater than 50,000 population that is within one-quarter mile of a rural area.

*Sign-up period.* The time period announced by the Agency in this Notice during which the Agency will accept form RD 9005-1.

*Smaller producer.* Eligible producers with a refining capacity of 150,000,000 gallons or less of Advanced Biofuel per year.

*State.* Any of the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

*USDA.* The United States Department of Agriculture.

## II. Funding Information

*A. Available Funds.* Congress appropriated mandatory funding to this program as follows: \$30 million for FY 2009.

*B. Number of Payments.* Under this notice, payments to participating Advanced Biofuel Producers will be made in one payment following the end of FY 2009. The number of payments made will depend on the number of eligible participating Advanced Biofuel Producers.

*C. Range of Amounts of Each Payment.* The amount of each payment will depend on the number of Eligible Advanced Biofuel Producers participating in the program, the amount of Advanced Biofuels being produced by such Advanced Biofuel Producers, and the amount of funds available.

*D. Contract period.* October 1, 2008 through September 30, 2009.

*E. Type of Instrument.* Payment.

## III. Eligibility Information

This Notice contains eligibility requirements for Advanced Biofuel Producers seeking payments under this program.

### A. Applicant Eligibility

To be eligible for this program, the applicant must be an Eligible Advanced Biofuel Producer, which is defined in this Notice as a producer of Advanced Biofuels who meets all requirements for program payments, and must meet the citizenship requirement specified in paragraph (1) or (2), as applicable, of this section.

(1) If the applicant is an individual, the applicant must be a citizen or national of the United States (U.S.), the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, or American Samoa, or must reside in the U.S. after legal admittance for permanent residence.

(2) If the applicant is an entity other than an individual, the applicant must be at least 51 percent owned by persons who are either citizens or nationals of the United States (U.S.), the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, or American Samoa, or legally admitted permanent residents residing in the U.S.

(3) The Agency will determine an applicant's eligibility for participation in this program.

(4) If an applicant's original submittal is not sufficient to verify an applicant's eligibility, the Agency will notify the Advanced Biofuel Producer, 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.

(5) An otherwise Eligible Advanced Biofuel Producer will be determined to be ineligible if the Advanced Biofuel Producer:

(i) Refuses to allow the Agency to verify any information provided by the Advanced Biofuel Producer under this program, including information for determining applicant eligibility, Advanced Biofuel eligibility, and application payments; or

(ii) Fails to meet any of the conditions set out in this Notice, in the Contract, or in other program documents; or

(iii) Fails to comply with all applicable Federal, State, or local laws.

### B. Rural Area Requirement

To be eligible for program payments, an otherwise Eligible Advanced Biofuel must be produced at an Advanced

Biofuel Biorefinery located in a Rural Area.

#### C. Payment Eligibility

To be eligible for program payments, an Advanced Biofuel Producer must maintain adequate records for FY 2009, quantifying:

(1) Feedstock usage and Advanced Biofuel production for each Advanced Biofuel Biorefinery, and

(2) All other records required to establish program eligibility and compliance.

### IV. Application and Submission Information

#### A. Address To Request Applications

Contract and Payment Application forms are available from the USDA, Rural Development State Office, Renewable Energy Coordinator. The list of Renewable Energy Coordinators is provided in the **ADDRESSES** section of this Notice.

#### B. Content and Form of Submission

Applicants must submit an original, signed hard copy of the Form RD 9005-1, "Advanced Biofuel Payment Program Annual Application," required in this section to the Rural Development State Renewable Energy Coordinators in the State in which the Advanced Biofuel Producer's principal office is located. A list of the Rural Development State Renewable Energy Coordinators is provided in the **ADDRESSES** section of this Notice. Applicants must submit to the Agency the following:

(1) *Form RD 9005-1, "Advanced Biofuel Payment Program Annual Application."* 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.

(i) Producers must submit authoritative evidence (as specified in paragraph B(2) below) documenting production of Advanced Biofuels, and the eligibility of the Advanced Biofuels, between October 1, 2007, and September 30, 2008. Advanced Biofuel

production must be certified as stated elsewhere in this notice in order to be eligible for payment, including determining Base and Incremental Production amounts.

(ii) Applicants may submit this form for an Advanced Biofuel Biorefinery that is scheduled to begin producing Eligible Advanced Biofuels after the application period for FY 2009 closes and before the end of FY 2009.

(iii) Please note that applicants are required to have a Dun and Bradstreet Universal Numbering System (DUNS) number (unless the applicant is an individual). The DUNS number is a nine-digit identification number, which uniquely identifies business entities. A DUNS number can be obtained at no cost via a toll-free request line at 1-866-705-5711 or online at <http://fedgov.dnb.com/webform>.

(2) *Certifications.* The Advanced Biofuel Producer must furnish the Agency all required certifications identified in paragraphs (B)(2)(i) and (ii), 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.

(i) *Alcohol.* For Alcohol Producers with authority from ATF to produce Alcohol, copies of either

(A) The Alcohol Fuel Producers Permit (ATF F 5110.74) or

(B) The registration of Distilled Spirits Plant (ATF F 5110.41) and Operating Permit (ATF F 5110.23).

(ii) *Hydrous ethanol.* If the Advanced Biofuel Producer entering into this agreement is:

(A) 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:

(1) Applicable hydrous Ethanol produced is distilled and denatured for fuel use according to ATF requirements, and

(2) Distiller will not include the applicable Ethanol in any payment requests that the distiller may make under this program.

(B) 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.

**Note:** The Agency may pay the first applicant to the exclusion of other possible applicants. Or, the Agency may require an agreement as to payment before paying either. Alternatively, the Agency may designate whether the distiller or the hydrous Ethanol Producer will be the payee where needed to ensure program integrity.

(C) *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.

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

(3) RD Instruction 1940-Q, Exhibit A-1, "Restriction on Lobbying (if over \$100,000)".

(4) SF-LLL, "Disclosure of Lobbying Activities".

(5) RD 400-4, "Assurance Agreement".

#### C. Submission Dates and Times

(1) *Enrollment.* Advanced Biofuel Producers who expect to have eligible production at any time during FY 2009 must enroll in the program between June 12, 2009 and August 11, 2009.

(2) *Payment applications.* Advanced Biofuel Producers must submit Form RD 9005-3 by 4:30 p.m. local time November 2, 2009. Payment will be made for the time period October 1, 2008 through September 30, 2009.

#### D. Intergovernmental Review

This program is not subject to Executive Order 12372—Intergovernmental Review of Federal Programs because the Government is not providing financial assistance for the development of advanced biofuel biorefineries.

#### E. Funding Restrictions

For a FY, not more than five percent of the funds shall be made available to eligible producers with a refining capacity exceeding 150,000,000 gallons of Advanced Biofuel per year. In calculating whether a producer meets the 150,000,000 capacity, production of all Advanced Biofuel Biorefineries

owned or operated by the producer will be totaled.

#### V. Program Payment Provisions

This section of the Notice identifies the process and procedures the Agency will use to make payments to Eligible Advanced Biofuel Producers.

As noted previously in this Notice, Form RD 9005-1, "Advanced Biofuel Payment Program Annual Application," will be used by Advanced Biofuels producers to apply for participation in this program. When a producer submits Form RD 9005-1, the Agency will make its determination as to whether or not the producer is eligible to participate. If an Advanced Biofuel Producer is determined to be ineligible, the Agency will notify the producer, in writing, of its determination.

If an Advanced Biofuel Producer is determined eligible to receive payments, the Eligible Advanced Biofuel Producer must then enter into a Contract with the Agency using Form RD 9005-2, "Advanced Biofuel Payment Program Contract," in order to participate in this program. The Agency will forward Form RD 9005-2 to the Advanced Biofuel Producer. 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. Each contract issued under this notice will be for FY 2009.

Once the Eligible Advanced Biofuel Producer has entered into a valid Contract with the Agency, the Advanced Biofuel Producer will be required to submit Form RD 9005-3, "Advanced Biofuel Payment Program—Payment Request," in order to receive payments under this 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.

(a) *Payment applications.* To request payments under this program, an Eligible Advanced Biofuel Producer must:

(1) Submit Form RD 9005-3, "Advanced Biofuel Program Payment Application," to cover all of FY 2009;

(2) Certify that the request is accurate;

(3) Furnish the Agency such certification, and access to such records, as the Agency considers necessary to verify compliance with program provisions; and

(4) Provide documentation as requested by the Agency regarding the net production of Advanced Biofuel at all Advanced Biofuel Biorefineries during FY 2009.

(b) *Additional documentation.* 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.

(c) *Notification.* The Agency will notify the Advanced Biofuel Producer, in writing, whenever the Agency determines that a Payment Application is ineligible and why the application was determined ineligible.

(d) *Payment provisions.* Determination of payments to Eligible Advanced Biofuel Producers will be made in accordance with the provisions of this paragraph. As stated previously, making these payments promotes the Agency's mission for promoting sustainable economic development in rural America and is an important part of achieving the Administration's goals for increased biofuel production and use by providing economic incentives for the production of advanced biofuels.

(1) *Determination of payment rate.* The Agency will establish payment rates for both Base and Incremental Production of Eligible Advanced Biofuels for both Smaller Producers and Larger Producers using the procedures specified in paragraphs (d)(1)(i) through (v). These rates will be applied to the actual quantity of Eligible Advanced Biofuel produced when making payments to Eligible Advanced Biofuel Producers, as described below.

(i) Based on the information provided in each eligible Form RD 9005-1, the Agency will determine Base and Incremental Eligible Advanced Biofuel Production being projected for the FY for both Smaller Producers and Larger Producers. Thus, the Agency will determine the Base Production quantity for Smaller Producers, the Incremental Production quantity for Smaller

Producers, the Base Production quantity for Larger Producers, and the Incremental Production quantity for Larger Producers.

(ii) If an applicant is blending its Advanced Biofuel using ineligible feedstocks (e.g., fossil gasoline or methanol, corn kernel starch), only the quantity of Advanced Biofuel being produced from eligible feedstocks will be used in determining the payment rates and for which payments will be made.

(iii) For each combination of production type (base, incremental) and producer size (smaller, larger—over 150 million equivalent gallons of production), the Agency will convert the projected Base and Incremental Production determined to be eligible under paragraph (d)(1)(i) into British Thermal Unit (BTU) equivalent using factors published by the Energy Information Administration (or successor organization). If the Energy Information Administration (or successor organization) does not publish such conversion factor for a specific type of Advanced Biofuel, the Agency will establish and use a conversion formula as appropriate until such time as the Energy Information Administration (or successor organization) publishes a conversion factor for said Advanced Biofuel. The Agency will then calculate the total eligible BTUs across all eligible applications.

(iv) The Agency will determine the amount of program funds available to Smaller Producers and to Larger Producers in the FY.

(v) The Agency will then determine the Base Production and Incremental Production payment rates (\$/Btu) for Smaller Producers and for Larger Producers. For both Smaller Producers and Larger Producers, the Incremental Production payment rate will be 3 times higher than their respective Base Production payment rate. These rates will be calculated such that all of the funds allocated will be distributed in the FY.

(2) *Contract Value.* Using the payment rates established under paragraph (d)(1) and the projected Base and Incremental Production for each Advanced Biofuel Biorefinery, the Agency will calculate a value for each Eligible Advanced Biofuel Producer's Contract for FY 2009 using Equation 4:

$$CV_{2009} = (BPPR \times BP) + (IPPR \times IP) \quad (\text{Eq. 4})$$



## Where:

CV<sub>2009</sub> = Contract value for FY 2009

BPPR = Base Production payment rate,  
\$/BTU

BP = projected eligible Base Production,  
BTUs

IPPR = Incremental Production payment rate,  
\$/BTU

IP = projected eligible Incremental  
Production, BTUs

(3) *Payment Amount.* Each eligible Advanced Biofuel Producer will be paid for the actual amount of BTUs produced from Eligible Advanced Biofuels produced in FY 2009. The Agency will not pay a producer more than the Contract value established under paragraph (d)(2).

(4) *Remaining funds.* If available funds remain at the end of FY 2009 (e.g., due to underproduction of Eligible Advanced Biofuels), the Agency will carry the funds over to FY 2010.

(5) *Other payment provisions.* The following provisions apply.

(i) Advanced Biofuel Producers will be paid on the basis of the amount of Eligible Renewable Energy Content of the Advanced Biofuels only if the producer provides documentation sufficient, including a Certificate of Analysis, for the Agency to determine the Eligible Renewable Energy Content for which payment is being requested, and quantity produced through such documentation as, but not limited to, records of sale and calibrated flow meter records.

(ii) There shall only be one Eligible Advanced Biofuel Producer per Advanced Biofuel Biorefinery. If needed, the Agency may treat Advanced Biofuel Producers with common interests, common ownership, or common Advanced Biofuel Biorefineries or arrangements as the same Advanced Biofuel Producer.

(iii) Hydrous Ethanol that is upgraded by another distiller to anhydrous ethyl Alcohol is eligible for payment only once; that is, the Agency will make payment either to the Advanced Biofuel Producer of the hydrous ethanol or to the Advanced Biofuel Producer who distills the hydrous Ethanol to anhydrous ethyl Alcohol.

(iv) Subject to other provisions of this section, Advanced Biofuel Producers shall be paid any sum due for the payment period, subject to the requirements and refund provisions of this Notice.

(e) *Payment Adjustments.* The Agency will adjust the payment otherwise payable to an Advanced Biofuel Producer if there is a difference between the amount actually produced and the amount determined by the Agency to be eligible for payment.

(f) *Payment liability.* Any payment, or portion thereof, made under this program shall be made without regard to questions of title under State law and without regard to any claim or lien against the Advanced Biofuel, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government.

(g) *Verification.* The Agency reserves the right to verify all payment requests and subsequent payments made under this program, as frequently as necessary to ensure the integrity of the program. The Agency will conduct site visits to review producer records in order to verify information submitted in Forms RD 9005-1 and RD 9005-3.

(1) *Self-certification by the producer.* The Agency will review producer records that the type and amount of biofuel produced and the type and amount of feedstocks used.

(2) *Blending verification.* The Agency will review the producer's certificates of analysis and feedstock records to verify the portion of the advanced biofuel eligible for payment.

(3) *Certificate of Analysis.* The Agency will review the producer records to ensure that each certificate of analysis has been issued by a qualified, independent third party.

(h) *Refunds and interest payments.* An Eligible Advanced Biofuel Producer who receives payments under this program may be required to refund such payments as specified in this paragraph. If the Agency suspects fraudulent representation through its site visits and records inspections under paragraph (g) of this section, it will be referred to the Office of Inspector General for appropriate action.

(1) An Eligible Advanced Biofuel Producer receiving payments under this program shall become ineligible if the Agency determines the Advanced Biofuel Producer has:

(i) Made any fraudulent representation; or

(ii) Misrepresented any material fact affecting a program determination.

(2) All payments made to an entity determined by the Agency to be ineligible shall be refunded to the Agency with interest and other such sums as may become due, including, but not limited to, any interest, penalties, and administrative costs as determined appropriate under 7 CFR 901.9.

(3) When a refund is due, it shall be paid promptly. If a refund is not made promptly, the Agency may use all remedies available to it, including Treasury offset under the Debt Collection Improvement Act of 1996, financial judgment against the producer,

and sharing information with the Department of Justice.

(4) Late payment interest shall be assessed on each refund in accordance with the provisions and rates established by the United States Treasury.

(i) Interest charged by the Agency under this Notice shall be established by the United States Treasury. Such interest shall accrue from the date such payments were made to the date of repayment.

(ii) The Agency may waive the accrual of interest or damages if the Agency determines that the cause of the erroneous determination was not due to any action of the Advanced Biofuel Producer.

(5) Any Advanced Biofuel Producer or person engaged in an act prohibited by this section and any Advanced Biofuel Producer or person receiving payment under this Notice shall be jointly and severally liable for any refund due under this Notice and for related charges.

## VI. Administration Information

### A. Notice of Eligibility

If an applicant is determined by the Agency to be eligible for participation, the Agency will notify the applicant, in writing, and will assign the applicant a Contract number. If an applicant is determined by the Agency to be ineligible, the Agency will notify the applicant, in writing, as to the reason(s) the applicant was rejected. Such applicant will have appeal rights as specified in this Notice.

### B. Administrative and National Policy Requirements

(1) *Review or appeal rights.* A person may seek a review of an Agency decision under this Notice from the appropriate Agency official that oversees the program in question or appeal to the National Appeals Division in accordance with 7 CFR part 11 of this title.

(2) *Remedies.* The remedies provided in this Notice to the Agency shall be in addition to other civil, criminal, or administrative remedies that may apply.

(3) *Records.* For the purpose of verifying compliance with the requirements of this Notice, each Eligible Advanced Biofuel Producer shall make available at one place at all reasonable times for examination by representatives of USDA, all books, papers, records, Contracts, scale tickets, settlement sheets, invoices, written price quotations, and other documents related to the program that is within the control of such Advanced Biofuel

Producer for not less than three years from each payment date.

(4) *Succession and control of biorefineries and production.* An entity who becomes the Eligible Advanced Biofuel Producer for a Biorefinery that is under Contract under this Notice must request permission from the Agency to succeed to the program Contract and the Agency may grant such request if it is determined that the entity is an eligible producer and permitting such succession would serve the purposes of the program. If appropriate, the Agency may require the consent of the previous Eligible Advanced Biofuel Producer to such succession.

Payments will be made only to an eligible Advanced Biofuel Producer with a valid Contract and for Biorefineries owned or controlled by said Producer. If payments are made to an Advanced Biofuel Producer for production at a Biorefinery no longer owned or controlled by said Producer or to an otherwise ineligible Advanced Biofuel Producer, the Agency will demand full refund of all such payments.

#### C. Environmental Review

All recipients under this Notice are subject to the requirements of subpart G of part 1940 of title 7 of the CFR. However, 7 CFR 1940.310(e) excludes this activity. In accordance with § 1940.310(e), General Exclusions, if a program provides assistance that is not related to the development of a specific site, it is excluded from conducting an environmental review.

#### VII. Agency Contacts

*Assistance.* For assistance on this payment program, please contact a USDA Rural Development State Renewable Energy Coordinator, as provided in the Addresses section of this Notice.

#### VIII. Non-Discrimination 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 programs. (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 TDD). To file a complaint of discrimination, write to

USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

Dated: June 8, 2009.

**Judith A. Canales,**

*Administrator, Rural Development, Business and Cooperative Programs.*

[FR Doc. E9-13816 Filed 6-11-09; 8:45 am]

**BILLING CODE 3410-XY-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Black Hills National Forest, Mystic Ranger District, SD, Mystic Range Project

**AGENCY:** Forest Service, USDA.

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

**SUMMARY:** The Forest Service will prepare an environmental impact statement on a proposal to evaluate grazing on eight (8) allotments on the Black Hills National Forest, Mystic Ranger District comprising approximately 85,055 acres within the constraints of the Black Hills National Forest Land and Resource Management Plan, as amended.

**DATES:** Comments concerning the scope of analysis must be received by July 13, 2009. The draft environmental impact statement is expected September 2009 and the final environmental impact statement is expected December 2009.

**ADDRESSES:** Send written comments to Robert J. Thompson, District Ranger, Black Hills National Forest, Mystic Ranger District, Mystic Range Project, 8221 South Highway 16, Rapid City, South Dakota 57702. Comments may also be sent via e-mail to *comments-rocky-mountain-black-hills-mystic@fs.fed.us*, or via facsimile to (605) 343-7134. Please list "Mystic Range" as the subject on comments sent via e-mail or facsimile. Electronic comments must be readable in Word, Rich Text, or PDF formats.

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative review or judicial review.

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:** If you have any questions or need additional information, please contact Mark Vedder, Range Specialist; Katie Van Alstyne, Team Leader; or Robert J. Thompson, District Ranger, at the Mystic Ranger District office in Rapid City at (605) 343-1567.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8330 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

#### Purpose and Need for Action

The purpose of this project is to authorize livestock grazing on all or part of the project area and to ensure that livestock grazing occurs in an environmentally acceptable manner. The EIS will determine current conditions, analyze environmental consequences of grazing management actions on those conditions, and assist the decisionmaker in selecting management/monitoring strategies consistent with meeting desired conditions in the Forest Plan.

The underlying needs for this proposal include:

- Improve livestock management so that it is consistent with the goals, objectives, standards, and guidelines of the Forest Plan, as amended.
- Improve species composition of upland vegetation.
- Improve streambank stability.
- Improve riparian vegetation diversity and abundance.
- Reduce opportunities for cattle conflicts with vehicle traffic.

#### SUPPLEMENTARY INFORMATION:

##### Proposed Action

The Proposed Action is designed to maintain or improve resource conditions in rangeland health, vegetation, watershed conditions, designated Botanical Areas, and wildlife habitat relative to livestock grazing. Some grazing practices would be changed to resolve grazing related issues. Proposed range improvements include water developments, fencing (for highway, pasture/allotment boundary, and/or riparian enclosure purposes), cattleguards, corrals, stream