

## Department of Energy

## § 452.2

(2) Setting forth the calculation of the approved amount of the incentive payment; and

(3) Stating the amount of accrued energy, measured in kilowatt-hours, for each qualified renewable energy facility, if any, and the energy source for same.

(g) *Disqualification.* If the application does not meet the requirements of this part or some of the kilowatt-hours claimed in the application are disallowed as unqualified, the Deciding Official shall issue a written notice denying the application in whole or in part with an explanation of the basis for denial.

[60 FR 36964, July 19, 1995, as amended at 71 FR 46387, Aug. 14, 2006]

### § 451.10 Administrative appeals.

(a) In order to exhaust administrative remedies, an applicant who receives a notice denying an application in whole or in part shall appeal, on or before 45 days from date of the notice issued by the DOE Deciding Official, to the Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in accordance with the procedures set forth in subpart C of 10 CFR part 1003.

(b) If an applicant does not appeal under paragraph (a) of this section, the determination of the DOE Deciding Official shall become final for DOE and judicially unreviewable.

(c) If an applicant appeals on a timely basis under paragraph (a) of this section, the decision and order of the Office of Hearings and Appeals shall be final for DOE.

(d) If the Office of Hearings and Appeals orders an incentive payment, the DOE Deciding Official shall send a copy of such order to the DOE Finance Office with a request to pay.

## PART 452—PRODUCTION INCENTIVES FOR CELLULOSIC BIOFUELS

Sec.

- 452.1 Purpose and scope.
- 452.2 Definitions.
- 452.3 Solicitations.
- 452.4 Eligibility requirements.
- 452.5 Bidding procedures.

452.6 Incentive award terms and limitations.

AUTHORITY: 42 U.S.C. 7101 *et seq.*; 42 U.S.C. 16251.

SOURCE: 74 FR 52871, Oct. 15, 2009, unless otherwise noted.

### § 452.1 Purpose and scope.

(a) This part sets forth the standards, policies, and procedures that the Department of Energy uses for receiving, evaluating, and awarding bids in reverse auctions of production incentive payments for cellulosic biofuels under section 942 of the Energy Policy Act of 2005 (42 U.S.C. 16251).

(b) Part 1024 of chapter X of title 10 of the Code of Federal Regulations shall not apply to actions taken under this part.

### § 452.2 Definitions.

As used in this part:

*Cellulosic biofuel* means any liquid fuel produced from cellulosic feedstocks.

*Cellulosic feedstock* means any lignocellulosic feedstock as defined by EPAct, section 932(a)(2).

*Commercially significant quantity* means 10 million gallons or more of cellulosic biofuels produced in one year.

*DOE* means the U.S. Department of Energy.

*Eligible biofuels producer* means a business association, including but not limited to a sole proprietorship, partnership, joint venture, corporation, or other business entity that owns and operates, or plans to own and operate, an eligible cellulosic biofuels production facility and that meets all other eligibility requirements that are conditions on the receipt of production incentives under this part.

*Eligible cellulosic biofuels production facility* means a facility—

(1) Located in the United States (including U.S. territories and possessions);

(2) Which meets all applicable Federal and State permitting requirements;

(3) Employs a demonstrated refining technology; and

(4) Meets any relevant financial criteria established by the Secretary.