

## **A. Justification**

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

Section 9002 of the Farm Security and Rural Investment Act (FSRIA) of 2002 provides for a preferred procurement program under which Federal agencies are required to purchase biobased products, with certain exceptions. Items (which are generic groupings of products) are designated by rulemaking for preferred procurement. To qualify items for procurement under this program, the statute requires that the Secretary of Agriculture consider information on the availability of items, the economic and technological feasibility of using such items, and the life cycle costs of using such items. Consideration of this information is a statutory requirement in rulemaking to designate items for preferred procurement. In addition, the Secretary is required to provide information on designated items to Federal agencies about the availability, relative price, performance, and environmental and public health benefits of such items, and where appropriate shall recommend the level of biobased material to be contained in the procured product. This information must also be provided in rulemaking to designate items for preferred procurement. The Office of Energy Policy and New Uses (OEPNU), which is located within the Office of the Chief Economist, is gathering this information on a sufficient number of individual products within an item to enable OEPNU to extrapolate the findings to the item, or generic groupings of products, level. That information is then provided in the rule to designate items, as required by the statute. OEPNU seeks voluntary cooperation from manufacturers and vendors of products within an item being considered for designation for preferred procurement in order to obtain the statutorily required information.

OEPNU has a cooperative agreement in place with the Center for Industrial Research and Service (CIRAS) at Iowa State University. CIRAS, under OMB Control Number 0503-0011, will continue to contact manufacturers and vendors of biobased products to gather product information, samples for biobased content testing, and certain manufacturing information to support an analysis of environmental and health effects and life cycle costs of a sufficient number of biobased products that fall within an item (generic grouping of biobased products) to enable OEPNU to extrapolate the product information to an item level to support the designation of items for preferred procurement under this preferred procurement program. Testing of products and development of analyses on individual products to support designation of items for preferred procurement by rulemaking is on going. Cooperation in this program by manufacturers and vendors of biobased products is voluntary.

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

OEPNU will continue to use the Center for Industrial Research and Service (CIRAS) at Iowa State University, with whom it has a cooperative agreement, to interact with manufacturers and vendors to gather such information and material for testing, as may be required to meet the statutory requirements for designation of items for preferred procurement by Federal agencies. The information collected will continue to be gathered using a variety of methods, including face to face

visits with a manufacturer or vendor, submission by manufacturers and vendors of information electronically to OEPNU, and survey instruments filled out by manufacturers and vendors and submitted to OEPNU. In the case of testing for biobased content, samples of products will be collected from manufacturers and vendors for use in conducting the appropriate test. Cooperation with OEPNU in gathering such information is voluntary on the part of the manufacturers and vendors. The information on a sufficient number of specific products to enable OEPNU to extrapolate product specific information to the item will be collected from voluntarily cooperating manufacturers and vendors of biobased products. This information is essential to meeting the statutory requirements for designating items for preferred procurement by Federal agencies. The designation of items by regulation is how the program provided for under section 9002 of FSRIA becomes operational, and manufacturers and vendors of biobased products that fit under an item designated by regulation are able to gain the benefits of preferred procurement of those products by Federal agencies.

When testing biobased products for biobased content, ASTM Radioisotope Standard Method (Standard number D 6866-04) will continue to be used. An analysis will be conducted to measure the environmental and health effects of using a product and its life cycle costs, using an analytic procedure developed jointly by the National Institute of Standards and Technology (NIST) and the Environmental Protection Agency (EPA) called BEES (which stands for “**B**uilding for **E**nvironmental and **E**conomic **S**ustainability”). Currently, OEPNU is paying for the cost of such testing and will continue to do so to the extent that funds are made available by the Congress to support such testing necessary for designation of items.

When items are designated by regulation, the information and test results of the sample of products, with results extrapolated to the item level, will be posted by OEPNU, at the item level, on an electronic information system that is available to the public, to manufacturers and vendors, and to Federal agencies to enable those involved in the program to learn which items have been designated by regulation.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.**

The responses by manufacturers and vendors to requests for data and product samples to support testing by OEPNU for designation purposes for a given item affect only a limited number (probably under ten) of manufacturers and vendors, and will be handled electronically to the extent possible. Every effort will be made to streamline the processes with which OEPNU interacts with manufacturers and vendors to reduce the cost and time burden on the voluntary respondents. Nonetheless, to gather samples of biobased materials and manufacturing information for testing for health and environmental effects and life cycle costs necessarily involves interaction by means other than electronically. CIRAS has a contractual relationship with the contractor doing BEES Analyses for the National Institute of Standards and Technology (NIST) under which the contractor provides assistance to manufacturing firms or vendors in filling out the BEES questionnaire.

In addition, manufacturers and vendors will be invited to voluntarily provide information on products that fall within designated items to USDA, which USDA will then post on USDA's BioPreferred website, <http://www.usda.gov/biopreferred>, where this information will serve as a major source of information on available biobased products qualified for preferred procurement by Federal agencies. At some time in the future, it is anticipated that these postings will be handled entirely electronically with manufacturers using prompts provided by OEPNU to electronically post their information on the website.

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

It is very unlikely that any of the data or sample requests to manufacturers and vendors represents duplication of requests by other government agencies. Where the test data required by the regulations are already in the hands of manufacturers and vendors, every effort will be made to use that information. The uniqueness of the preferred procurement program makes it highly unlikely that requests for the same data have already been made by government or the private sector. Moreover, because this program is voluntary, it is reasonable to expect that those manufacturers and vendors that choose to cooperate in it and provide information have determined that the business benefits to them outweigh any data burdens.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

OEPNU, in its efforts to gather statutorily required information from a representative group of products that fall within an item and extrapolate that information to the data characteristics of the item, will gather information and test materials provided by both large and small business entities that produce the products in question. Under the current authorization to collect information, OEPNU is assisting in funding the cost of testing products for biobased content and for environmental and health effects and life cycle costs. OEPNU anticipates continuing to fund the testing required to support designation of items for preferred procurement for at least the next two years, subject to availability of appropriated funding to support this activity.

**6. Describe the consequence 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.**

OEPNU will only collect the necessary amount of information and testing of individual products to satisfy the statutory requirements for designating by rulemaking for preferred procurement. To do information collection less frequently than necessary for purposes of designating items (generic groupings of biobased products) for preferred procurement by rulemaking would mean OEPNU would intentionally delay the designation of items for preferred procurement and would as a result deny manufacturers and vendors of products within those items the economic benefits of preferred procurement by Federal agencies.

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

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

Respondents will not be required to report to OEPNU on a quarterly basis or more often than that.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

OEPNU will not require written responses, beyond completing the BEES Questionnaire, and only requests voluntary cooperation from manufacturers and vendors. In the case of voluntary cooperation, the manufacturer and vendor may choose to respond to information requests within 30 days, but are not be required to do so.

- **requiring respondents to submit more than an original and two copies of any document;**

OEPNU will not require more than an original and two copies of any document submitted to it by cooperating manufacturers and vendors. Every effort will be made to collect such information electronically, using the OEPNU electronic information system.

- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

OEPNU does not require retention of data for item designation purposes by voluntary respondents beyond a three year interval, unless that is already required by normal business practice of the respondent firm.

- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

OEPNU does not anticipate conducting statistical surveys under this authorization.

- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

OEPNU does not anticipate conducting statistical surveys or requiring use of statistical data classifications under this authorization.

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

OEPNU will not do so under this authorization.

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

In the process of performing a BEES analysis on a limited number of individual products within an item, those manufacturers and vendors who have chosen to cooperate with OEPNU by providing information will be asked to provide that information to a private contractor that is bound by its contract with the National Institute of Standards and Technology (NIST) to protect the confidentiality of any proprietary information that the manufacturer or vendor might choose to provide the private contractor. OEPNU will not have access to such information nor will it have it in its possession at any time. The contractor will continue to provide USDA only the analytic results of

the BEES analysis to be used to support designation of items (generic groupings of biobased products), which does not contain any proprietary information.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.**

USDA published a notice requesting comment on the extension of the previously approved information collection for the Guidelines (see 72 FR 60796, Friday, October 26, 2007). No comments were received on this notice.

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting form, and on the data elements to be recorded, disclosed, or reported.**

During the process of developing the package, OEPNU undertook extensive discussions with the Environmental Protection Agency, the White House Office of the Environmental Executive, USDA's Agricultural Marketing Service, the Defense Logistics Agency, the General Services Administration, Congressional Staff of agricultural committees in both the U.S. Senate and House, and the National Institute of Standards and Technology (NIST) to seek their views on these issues. In addition, OEPNU undertook discussions with trade associations with interests in biobased products. The trade associations included:

- Renewable Fuels Association,  
Bob Dinneen, President and CEO  
One Massachusetts Avenue, Suite 820  
Washington, DC 2001  
Phone: 202-289-3835
- United Soybean Board  
Mike Erker, New Uses Program Manager,  
16640 Chesterfield Grove Road, Suite 130  
Chesterfield, MO 63005  
Phone: 314-579-1581
- National Corn Growers  
Rene Shunk, Director of Business Development/Corn Processing Research  
1000 Executive Parkway, Suite 105  
St. Louis, MO 63141  
Phone: 314-275-9915
- Biobased Manufacturers Association  
Kim Kristoff, Founder and Chairman  
Phone: 602-265-8586  
Dan Manternach, Managing Director  
Phone: 314-372-3519  
Doane Agricultural Services  
11701 Borman Drive, Suite 300  
St. Louis, MO 63146

USDA also interacted extensively with Dr. Ramani Narayan of Michigan State University's Department of Engineering and Materials Science. Dr. Narayan has served on the Board of Directors of ASTM International and is currently serving as Chairman of ASTM subcommittee D20.96 on Environmentally degradable plastics and biobased products, as USA Technical Expert on ISO (International Standards Organization) TC 61 on plastics and convener for plastics terminology committee, and as the Chairman of the Technical Committee of the Biodegradable and Biobased Products Institute.

Over 270 specific public comments were received in response to publishing the draft rule in the Federal Register, and those comments were addressed in the preamble to the final rule. USDA will continue to seek input from these sources as information is collected to support rulemaking activities designating items for preferred procurement.

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

There is no intent to provide any payment or gift to respondents.

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

The National Institute of Standards and Technology (NIST) in its contract with the private sector contractor(s) that conduct(s) the BEES Analysis has included language regarding restrictions against disclosure (dated March 2000) of information submitted to the contractor(s) by manufacturers or vendors for the purpose of conducting the BEES analysis on their products. The language in the contract between NIST and the private contractor(s) has, "a. The contractor agrees, in the performance of this contract, to keep the information furnished by the Government and designated by the Contracting Officer or Contracting Officer's Technical Representative in the strictest confidence. The Contractor also agrees not to publish or otherwise divulge such information in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the Contractor's possession, to those employees needing such information to perform the work provided herein,-i.e., on a "need to know" basis. The Contractor agrees to immediately notify the Contracting Officer in writing in the event that the Contractor determines or has reason to suspect a breach of this requirement."

In addition, "b. The Contractor agrees that it will not disclose any information described in subsection a to any persons or individual unless prior written approval is obtained from the Contracting Officer. The Contractor agrees to insert the substance of this clause in any consultant agreement or subcontract hereunder."

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to**

**persons from whom the information is requested, and any steps to be taken to obtain their consent.**

No such questions will be asked of voluntary cooperators.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

Through FY 2007, USDA's OEPNU has, under the approval previously granted by OMB (OMB Control Number 0503-0011), collected information to support the designation of approximately 80 items. USDA has identified approximately 83 additional items for which it intends to collect information to support their designation for preferred procurement during the next three fiscal years. OEPNU's estimates of the hour burden for the collection of information to support the designation of items are summarized in Table 1, and discussed in the following paragraphs.

During the next three fiscal years, OEPNU estimates that, on average, 5 manufacturers per item will participate in the development of information associated with the designation of items for preferred procurement. Thus, OEPNU estimates that there will be 415 respondents (83 items times 5 manufacturers per item) to the information collection during this period.

OEPNU estimates that each of the 415 participating manufacturer will require 80 hours to provide the information and test material related to designation. Further, OEPNU estimates that there will be 30 products per item for an average of 6 products per manufacturer. OEPNU estimates that each manufacturer will require 4 hours per product, or a total of 24 hours each, to provide information to OEPNU for subsequent posting by OEPNU to the BioPreferred Web site. Thus, each manufacturer is expected to require 104 hours to respond to OEPNU's request for materials to support the designation process.

OEPNU estimates that, during FY 2008, work will begin on gathering information on 50 of the estimated 83 items. Based on the estimates in the previous paragraph, OEPNU estimates that a total time commitment from manufacturers of 20,000 hours in FY 2008 (50 items times 5 manufacturers equals 250 manufacturers and 250 manufacturers times 80 hours equals 20,000) for purposes of designating items. For the estimated 1,500 products (50 items times 30 products per item), OEPNU estimates a burden of 6,000 hours of manufacturers' time (250 manufacturers times 24 hours each) in FY 2008 for providing information to OEPNU for posting to the BioPreferred Web site. Thus, the total manufacturers' time burden for FY 2008 would be 26,000 hours.

**TABLE 1. Estimate of Hour Burden of the Collection of Information**

<b>Fiscal Year</b>	<b>Description of Information Collection Activity</b>	<b>Number of Respondents</b>	<b>Number of Responses per Respondent</b>	<b>Total Annual Responses</b>	<b>Hours per Response</b>	<b>Total Hours</b>	<b>Labor Rate, \$/Hr.</b>	<b>Total Annual Labor Hours Cost</b>
2008	Provide biobased product data, samples for testing, and information for posting to Web site	250	1	250	104	26,000	49.98	\$1,299,480
2009	Provide biobased product data, samples for testing, and information for posting to Web site	90	1	90	104	9,360	49.98	\$467,813
2010	Provide biobased product data, samples for testing, and information for posting to Web site	75	1	75	104	7,800	49.98	\$389,844
Total for 3-yr period		415		415		43,160		\$2,157,137
<b>Average Annual Values (Rounded)</b>		<b>138</b>		<b>138</b>		<b>14,387</b>		<b>\$719,046</b>



For FY 2009 and FY 2010, OEPNU estimates that work will begin on designating an additional 18 items in FY 2009 and 15 items in FY 2010. Using the same assumptions for estimating a manufacturer's time commitment that was used for FY 2008, the total manufacturer's time burden would be 9,360 hours in FY 2009 and 7,800 hours in FY 2010. Over the next three fiscal years, the average annual manufacturers' time burden is 14,387 hours per year (26,000 + 9,360 + 7,800 = 43,160 total hours, and 43,160/3 years = 14,387 hours per year).

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

The annualized cost to respondents for the hour burdens for collections of information and for posting of qualifying product information by manufacturers on the web site [www.biobased.oce.usda.gov](http://www.biobased.oce.usda.gov) is estimated by USDA's OEPNU to total:

- 1) For FY 2008, \$1,299,480.
- 2) For FY 2009, \$467,813.
- 3) For FY 2010, \$389,844.

These cost estimates are based on use of the estimated hour burden to manufacturers for each of the years, FY 2008, FY 2009, FY 2010, multiplied by \$49.98 per hour. This hourly rate is priced at the step 6, GS 14 "rest of the United States" salary of \$103,957 per annum (with 2080 hours worked per annum). The salary level is deemed reasonable under the expectation that at least half the burden hours would likely be provided by private sector employees earning less than this hourly rate and up to half the private sector employees would be earning more.

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

No capital or start up costs are associated with the program.

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

**Answer:** USDA estimates the annualized cost to the Federal government of developing the data needed for designating items (generic groupings of biobased products), of funding the necessary testing of biobased products to support that designation effort, and of maintaining the electronic information system on which manufacturers and vendors are invited to voluntarily post product information for products that fall within designated items to be \$1.8 to \$3.0 million per year.

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

Although the total number of hours requested in Item 13 of the OMB Form 83-I (14,387 hours) is the same as the number that was originally approved under OMB Control Number 0503-0011, the estimated number of respondents and responses has been revised to more accurately reflect how the burden will be distributed. In the original Paperwork Reduction Act Submission (OMB 83-I), it was assumed that the estimated 415 manufacturers of biobased products that participate in the program over the 3-year period would prepare seven separate responses to the request for information. Thus, there would be 968 respondents submitting 968 responses (415 manufacturers times 7 responses divided by 3 years = 968 per year). The 7 separate responses per manufacturer included the effort to provide data for the designation process (1 response) and also to provide information for posting on the BioPreferred Web site for each of the 6 biobased products that they are assumed to manufacture (6 responses). In completing the OMB 83-I for this request for extension of the currently approved collection, we have assumed that each of the 415 manufacturers will gather all of the pertinent data for their participation in the preferred procurement program and submit it as one submittal. As shown in Table 1, this results in an estimated 138 respondents and 138 responses per year over the 3-year period. We believe this is a more accurate presentation of the actual number of manufacturers who will be bearing the requested 14,387 hours per year reporting burden.

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

No collections of information are planned to be published.

**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.**

USDA is not seeking approval to not display the expiration date for OMB approval of the information collection.

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

There are no exceptions to the certification statement identified in Item 19 “Certification for Paperwork Reduction Act.”

**19. How is this Information collection Related to the Customer Service Center?**

This information collection is not related to the Customer Service Center, but is a statutory requirement of section 9002 of FSRIA that established the Federal biobased Products Preferred Procurement Program.

**B. Collections of Information Employing Statistical Methods**

The collection of information under this program will not employ statistical methods.

