

2021 SUPPORTING STATEMENT
Biofuel Producer Program
OMB No. 0570-XXXX

A. Justification

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

The Biofuel Producer Program (Program) is authorized under Section. 751, Division N, Title VII—Nutrition and Agriculture Relief, of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2021, P.L.116-260 (the Act). The Act authorizes the Secretary of Agriculture to make payments to eligible producers of eligible biofuel, biomass-based diesel, cellulosic biofuel, conventional biofuel, or renewable fuel produced in the United States, for unexpected market losses as a result of COVID–19. Entities eligible to receive payments under the Program are producers of eligible biofuels, biomass-based diesel, cellulosic biofuel, conventional biofuel, or renewable fuel produced in the United States, that meet all of the requirements of the Program. Such entities can be 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 that produces an eligible biofuel and that sells the biofuel on the commercial market.

The Rural Business-Cooperative Service (RBCS or Agency), an agency within the Rural Development (RD) Mission Area of the United States Department of Agriculture (USDA), will be administering the Program.

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

Producers seeking to participate in the Program must enroll by submitting an application (RD Form 4288-7), which includes specific information about the producer and the producer’s biofuel biorefineries. This information will be used to determine whether the biofuel producer is eligible to participate in the Program and whether the biofuel being produced is eligible for payment under the Program.

Payment to a biofuel producer will be based upon the volume of market loss the biofuel producer experienced in the first two quarters of calendar year 2020. The producer’s volume of market loss will be calculated by comparing the amount of fuel (gallons of eligible biofuel) they produced in the third and fourth quarters of calendar year 2019 to the amount of fuel (gallons of eligible biofuel) produced in the first and second quarters of calendar year 2020.

The Agency has made the Application (RD Form 4288-7 with the Part B attachment) and instructions to the form available on the USDA eForms website at <https://forms.sc.gov.usda.gov/eForms/searchAction.do>. They are also available on the RD

website.

REPORTING REQUIREMENTS – NON-FORMS

Certification for Contracts, Grants, and Loans 1940 Q, Exhibit A-1

Applicants read and sign this certification. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

Appeals

The applicant/eligible biofuel producer may appeal any adverse Agency decision. Appeals are handled in accordance with Departmental appeal regulations.

Additional Information

Applicants may be requested by the Agency to submit additional information if their application for participation does not contain sufficient information to allow the Agency to make an eligibility determination.

REPORTING REQUIREMENTS - FORMS

Form RD 4288-7, “Biofuel Producer Program Application”

Applicants seeking to participate in the Program will have to submit this form and the Part B attachment in order to apply for participation in this Program. The form and Part B attachment require a biofuel producer to provide information on the biofuel producer; the biofuel producer’s biorefineries at which the biofuels are produced, including location and quantities produced and a description of the business; and the amount of eligible biofuels they produced in the third and fourth quarters of calendar year 2019 and the amount of fuel (gallons of eligible biofuel) produced in the first and second quarters of calendar year 2020. Applicants are required to submit with this form documentation to support the amount of biofuels reported in the form. The form also requires the biofuel producer to certify that the biofuels are eligible biofuels. Applicants are required to have a Dun and Bradstreet Universal Numbering System (DUNS)/Unique Entity Identifier number (unless the applicant is an individual). A DUNS/Unique Entity Identifier 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>. The Program is also required to comply with 2 CFR Subtitle A, Chapter I, and Part 25, Financial Assistance Use of Universal Identifier and System for Awards Management (SAM), requiring the registration of the DUNS number in the SAM.

The biofuel producer must also furnish the Agency all required certifications, as applicable, before acceptance into the program, and furnish access to the biofuel producer’s records required by the Agency to verify compliance with program provisions. The required certifications depend on the type of biofuel produced. The specific certifications are identified below.

Alcohol. For alcohol producers with authority from the Bureau of Alcohol, Tobacco, and

Firearms (ATF) to produce alcohol, copies of either the alcohol fuel producers permit (TTB F 5110.74) or the registration of Distilled Spirits Plant (TTB F 5110.41) and Operating Permit (TTB F 5110.25).

Hydrous ethanol. If the biofuel producer entering into this agreement is the hydrous ethanol producer, then the biofuel producer shall include with the contract an affidavit, acceptable to the Agency, from the distiller stating that the applicable hydrous ethanol produced is distilled and denatured for fuel use according to ATF requirements and that the distiller will not include the applicable ethanol in any payment requests that the distiller may make under this program.

If the biofuel producer entering into this agreement is the distiller that upgrades hydrous ethanol to anhydrous ethyl alcohol, then the 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.

Biodiesel, biomass-based diesel, and liquid hydrocarbons derived from biomass. For these fuels, the biofuel producer shall self-certify that the producer, biofuel refinery, and the biofuel meet the definition of each term as defined in the Clean Air Act, the applicable regulations of the U.S. Environmental Protection Agency and Internal Revenue Service, and quality requirements per applicable ASTM International standards (e.g., ASTM D6751) and commercially acceptable quality standards of the local market. The biofuel producer must also provide the Renewable Identification Number (RIN) for each biofuel and BQ-9000 certification.

If an applicant's original submittal is insufficient to verify an applicant's eligibility, the Agency will notify the applicant, 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.

The Agency is requiring the Application Form and Part B attachment in order to ensure that only eligible biofuel producers participate in the Program and to determine payment rates.

Recordkeeping. All applicants and recipients are required to keep records for 3 years after the date in which payments are made per 2 CFR 200.334. The 3 years retention is in case the Agency requires further review of the records. Producers will make records available for Agency inspection as necessary. The Agency has included this on the burden spreadsheet but has not included any cost with it.

REPORTING REQUIREMENTS - FORMS APPROVED UNDER OTHER OMB NUMBERS

RD 400-4, "Assurance Agreement" (OMB No. 0575-0018). All applicants and recipients

are required to complete this form to comply with Civil Rights Acts and laws.

SF-LLL, “Disclosure of Lobbying Activities” (4040-0013). All applicants are required to complete this form, regardless of their involvement in lobbying activities.

SF-3881, “Automated Clearing House Vendor/Miscellaneous Payment Enrollment Form” (1530-0069) – All recipients are required to complete this form prior to receiving payment.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Also describe any consideration of using information technology to reduce burden.

The Agency will collect all forms electronically. During the application period, RBCS updates the website to show it is open for enrollment, ensure any forms are updated, and provides instructions for enrollment information to be submitted to the Agency.

4. Describe efforts to identify duplication.

There is no duplication of information.

The Agency frequently communicates with other institutions involved with business development for the purpose of sharing information and coordinating respective activities. If similar information is found to be available from another Federal agency, action is taken to avoid duplication.

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

The Agency estimates that approximately 70 percent of the producers that enroll in this program qualify as small businesses. The Agency has made every effort to ensure that the burden on small entities is the minimum necessary to effectively administer Agency programs and meet statutory requirements needed with respect to both large and small entities beyond that performed in normal business practice.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information collected under the Program is considered to be the minimum necessary to conform to the requirements of the Program established by law. Information is collected only when needed, and we believe no reduction of collection is possible. This minimum reporting of information is necessary for the Agency to administer the Program in an equitable and cost-effective manner. Failure to collect proper information could result in

improper determinations of eligibility and improper payments.

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

- (a) Requiring respondents to report information more than quarterly.
- (b) Requiring written responses in less than 30 days.
- (c) Requiring more than an original and two copies.
- (d) Requiring respondents to retain records for more than 3 years.
- (e) Not utilizing statistical sampling.
- (f) Requiring use of statistical sampling which has not been reviewed and approved by OMB.
- (g) Requiring a pledge of confidentiality.
- (h) Requiring submission of proprietary trade secrets.

There are no special circumstances. The collection of information is consistent with the guidelines in 5 CFR 1320.6.

8. Comments on Agency's notice in the Federal Register and efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of the instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

This is a new information collection that is associated with a Notice of Funding Opportunity (NOFO). In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the 60-day notice for public comment for this information collection is embedded in the NOFO and will be published in the *Federal Register*. The public will be given 60 days to submit comments on this collection. Suggestions and comments are always considered by the Agency, and RD remains committed to pursuing further reductions in both the burden placed upon our borrowers/customers and the total volume of regulations imposed.

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

No payments or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis

for the assurance in statute, regulation, or Agency policy.

Confidentiality is not assured. Requests for release of records and information are processed in accordance with the Privacy Act of 1974.

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.

There is no collection of any information that would be considered sensitive in nature or commonly considered private.

12. Provide estimates of the hour burden of the collection of information.

Based on the anticipated funding level for this Program, the estimated average annual burden for this collection is 300 respondents; 633 responses; and 996 burden hours. Based on this data, the estimated average annual cost of burden is \$38,844.

The following summarizes the estimated average annual burden associated with the Program.

Estimate of the Hour of Burden of the Collection of Information					
Number of Respondents	Total Responses	Burden Hour Per Response	Total Annual Burden Hours	Hourly Cost Per Response	Annual Cost
300	633	1.57	996	\$39.00	\$38,844

Burden Item	Estimated Annual Burden
Number of respondents:	300
Total annual responses:	633
Number of hours per response:	1.57
Total hours:	996
Cost per hour:	\$39.00
Total annual cost:	\$38,844

The dollar amount used for the wage grade, \$39.00, is the rounded, weighted average of the mean wages from the Bureau of Labor Statistics, [May 2020 National Occupational Employment and Wage Estimates \(bls.gov\)](https://www.bls.gov/news.release/wageest.pdf). Mean wages by occupation for the following classes: The Agency estimates that 60% of the work is done by “Other Management Occupations” category 11-9000 (\$51.40 per hour) and the other 40% is done by “Bookkeeping, Accounting, and Audit Clerks” category 43-3031 (\$21.20 per hour).

See the attached spreadsheet for more detail.

13. Provide an estimate for the total annual cost burden to the respondents or record-keepings resulting from the collection of information.

There are no capital/start-up costs or operation/maintenance costs associated with this collection.

14. Provide estimates of annualized cost to the Federal Government.

The estimated wage of federal employees compiling the information is \$54.77 per hour. Staff at various pay scales ranging from GS 7's to GS 13's are working on this program. The Agency looked at the amount of time at the various pay scales and blended the rates to come up with the \$54.77. This includes work done by a GS-7, Step 5 (\$36.01) working 20% of the time, a GS-9, step 5 (\$44.05) working 30% of the time, a GS-12, step 5 (\$63.87) working 30% of the time and a GS-13, step 5 (\$75.96) working 20% of the time. The amounts were based on the 2020 OPM base salary ([SALARY TABLE 2020-DCB \(opm.gov\)](#)) plus 36.25% in fringe benefits. Administrative costs are estimated and include the cost of other personnel outside the Agency such as Office of Management and Budget, Office of the General Counsel, Chief Financial Office, etc. The average annual cost to the Government is estimated to be \$132,237. The breakdown of cost to the Government by activity is as follows:

Estimates of Annualized Cost to the Federal Government

Activity	Average Grade Level	Number of Staff	Estimated Average Annual Burden	Respondents	Hourly Rate	Administrative Costs
Determine Producer Eligibility	Multiple	30	1.58 hours	300	\$ 54.77	\$25,961
Follow-up/ Clarification Related Work	Multiple	30	1.7 hours	30	\$54.77	2,793
Process Payment Application	Multiple	30	3.3 hours	285	54.77	51,511
Appeals	Multiple	3	12 hours	3	54.77	1,972
Administrative			5			50,000
Totals						\$132,237

Allocation of Federal Government Costs

Activity	Estimated Average Annual Burden
Determine producer eligibility	\$25,961
Follow-up/Clarification Related Work	\$2,793
Process payment applications	\$51,511
Appeals	\$1,972
Administrative	\$50,000
Total	\$132,237

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

This is an emergency approval request for a new information collection.

16. For collection of information whose results will be published, outline plans for tabulation and publication.

The results of this collection of information will not 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.

RD will display the OMB expiration date on the forms.

18. Explain each exception to the certification statement identified in item 19 on OMB 83-I.

There are no exceptions to the certification. The Agency is able to certify compliance with all provisions under item 19.

19. How is this information collection related to the Service Center Initiative (SCI)? Will the information collection be part of the one stop shopping concept?

This information collection is not related to the Service Centers Initiative. The information collection under this notice is case specific.