

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency (FSA)
OMB Number 0560-0082-Biomass Crop Assistance Program (BCAP) and Emergency
Conservation Program (ECP)

- 1. Explain the circumstances making 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.**

ECP

ECP, authorized by the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), provides emergency funds for sharing with agricultural producers the cost of rehabilitating farmland damaged by natural disaster, and for carrying out emergency water conservation measures during periods of severe drought. Financial assistance for ECP measures may be made available in any State or area which has experienced a natural disaster of such magnitude that emergency measures, as determined by the local FSA county committee are required.

FSA, in cooperation with the Natural Resources Conservation Service (NRCS), and other organizations, provides eligible producers and landowners cost-share incentives and technical assistance through several conservation and environmental programs to help farmers, ranchers, and other eligible landowners and operators conserve soil, improve water quality, develop forests, and rehabilitate farmland severely damaged by natural disasters.

BCAP

FSA is also managing BCAP authorized by Section 9010 of the Agricultural Act of 2014 (Pub. L. 113-79), which amends Title IX of the Food, Conservation and Energy Act of 2008.

BCAP regulation outlined the legislations parameters, program definitions and processes for: 1.Establishing BCAP project areas; 2.Matching payment opportunity for eligible material owners and qualifying biomass conversion facilities; 3. Contracting acreage for producers in BCAP project areas; and 4. Establishment and annual production payments for producers in BCAP projects areas.

Information collection from eligible biomass owners, biomass conversion facilities, and producers meeting the requirements for matching payments, annual production payment assistance, establishment payments and BCAP project area designation is necessary in order to ensure the financial accountability needed to operate and administer the BCAP.

The Secretary makes payment for the delivery of eligible material to a biomass conversion facility to:

- A producer of an eligible crop that is produced on BCAP contract acreage or
- A person with the right to collect or harvest the eligible material.
- Payments be made for collection, harvest, storage, and transportation to a biomass conversion facility.

The Secretary may provide matching payments at a rate of \$1 for each \$1 per ton provided by the biomass conversion facility, in an amount equal to not more than \$20 per ton for a period of 2 years.

For BCAP project area designation and establishment and annual production payments, FSA requires that:

- A project sponsor submit a project area proposal and meet the eight outlined criteria.
- A producer meets the terms and conditions associated with contracting acreage to receive annual production payments.
- A producer meets the terms and conditions associated with cost-share agreement of 50 percent of establishment payments for perennial crops.

The information CCC and FSA need to collect includes:

- Estimated and actual delivery information on application forms from eligible biomass owners
- An Agreement from Biomass Conversion Facilities
- Project Area proposal information
- Producer establishment practices and costs for perennial crops
- Producer practices and land management of contract acreage including acreage, land management history, and agronomic conditions.

2. Indicate how, by whom, 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.

ECP

The existing FSA 848-form series still apply to disasters prior to FY24 as follows:

Form FSA-848 and the FSA-848-1 continuation sheet are used for accepting cost share requests and also provide the functionality for completing needs determinations. This form is more efficient by collecting this information for multiple farms and tracts and multiple practices all on a single form. This form also includes a disaster identification number that will help automate limits on payments to producers for specific disasters. Additionally, the form will collect information on the type and extent of damage to crops and livestock where practices will be implemented.

Form FSA-848A and the FSA-848A-1 continuation sheet is the agreement for cost share assistance rather than including this on the same form as the application.

The FSA-848B and the FSA-848B-1 collects information for performance certifications and payments. This form also serves as the participant's agreement to complete an uncompleted practice and no longer require the FSA-18.

The new FSA 801 form series will apply to disaster that occur in FY24 and forward as follows:

Form FSA-801 and the FSA-801-1 continuation sheet are used for accepting cost share requests and also provide the functionality for completing needs determinations. This form is more efficient by collecting this information for multiple farms and tracts and multiple practices all on a single form. This form also includes a disaster identification number that will help automate limits on payments to producers for specific disasters. Additionally, the form will collect information on the type and extent of damage to crops and livestock where practices will be implemented.

Form FSA-801A and the FSA-801A-1 continuation sheet is used by the applicable technical agency to document needed activities and amount (s) necessary to restore the land, according to standards with the minimum levels of performance to address the ECP need.

Form FSA-801B and the FSA-801B-1 continuation sheet is the agreement for cost share assistance rather than including this on the same form as the application and/or request.

The FSA-801C and the FSA-801C-1 collects information for performance certifications and payments. This form also serves as the participant's agreement to complete an uncompleted practice and no longer require the FSA-18.

CCC-901 is required to apply direct attribution for all entities named on FSA-848. If a minor is a participant or member of entity on FSA-848, a CCC-902I is also necessary to collect information to aid in direct attribution of payments. (The CCC-901 and CCC-902I are required for Emergency Conservation Program only so they are not exempted from PRA as indicated in the Paperwork Statement in the form.)

The recordkeeping requirements associated with receiving ECP cost-share payments is maintained as normal business practices, and have no burden impact.

BCAP

For BCAP, the information for the matching payments will be collected from eligible material owners by FSA County Office staff and entered into the electronic form, BCAP-10 and 11 and stored in an electronic database. Member's Information collected in the CCC-901 form is used to determine arm's length transactions and 2-year limitation of eligibility are in compliance. If desired by the eligible material owner an FSA-211 providing power of attorney may also be completed.

The information collected from biomass conversion facilities seeking to become qualified biomass conversion facilities will be supplied directly from the biomass conversion facility staff and transmitted via email to FSA headquarters staff in Washington, D.C. where it will be entered into an electronic database. Therefore, an agreement including the AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions and a Biomass Conversion Facility Overview (BCAP-1 Form), must be executed between CCC and the biomass conversion facility. The Agreement will provide the BCAP provisions that must be followed by the biomass conversion facility to ensure equitable treatment of eligible material owners.

The information recorded are used to produce reports, as needed by FSA to inform the public how FSA has administered matching payment funds at the State and county level and to establish a list of BCAP qualified biomass conversion facilities. When a biomass conversion facility meets these terms and enters into an Agreement and AD-1047 with CCC, FSA county offices will periodically inform the public including agricultural and forest land owners and operators that matching payments may be available for deliveries of eligible material to qualified biomass conversion facilities. FSA county offices also maintain a publicly available listing of qualified biomass conversion facilities for general public access and distribution that may include general information about the facility and its eligible material needs to encourage eligible material transactions. An online listing of the facilities with address, assigned facility ID number and contact information are also available on the BCAP web page: www.fsa.usda.gov/bcap.

The purpose of the matching payment opportunity is to assist eligible persons or entities with the collection, harvest, storage, and transportation of eligible material delivered for use in a qualified biomass conversion facility as one component of BCAP. Through matching payments, CCC provides payments at a rate of \$1 for each \$1 per dry ton paid by the qualified biomass conversion facility to the eligible material owner for delivery of eligible material to the facility in an amount not to exceed \$20 per dry ton. This program will be available to eligible material owners for a period of two years. These matching payments may be made to persons delivering eligible material to a qualified biomass conversion facility who possess the right to collect or harvest eligible material and are considered the owners of the eligible material.

The information for the establishment and annual crop production payments are collected from producers and for project area proposals it will be collected from project sponsors.

The forms are in this information collection: BCAP-10, BCAP-11, BCAP 20, BCAP-21, BCAP-24, BCAP-22, and BCAP-23.

Project sponsors will be either a biomass conversion facility or a group of producers. The project area proposals are in the form of a project area overview or BCAP-20 and BCAP-21 forms with the BCAP-1 form. That overview includes:

- Dry tons of the eligible crops proposed to be produced in the proposed Project Area and the probability that such crops will be used for BCAP purposes;
- Dry tons of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;
- Anticipated economic impact in the proposed Project Area, such as the number of jobs created and retained;
- Opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed Project Area;
- Participation rate by beginning or socially disadvantaged farmers or ranchers;
- Impact on soil, water, and related resources, such as effect on nutrient loads, or soil erosion;
- Variety in biomass production approaches within a project area, including agronomic conditions, harvest and postharvest practices; and monoculture and polyculture crop mixes; and
- Range of eligible crops among project areas.

An environmental screening is also conducted to determine the NEPA requirements for the project area. The BCAP-22 form collect information that are reviewed by a State interagency team possibly consisting of representatives from NRCS, F&WS, FSA, USFS, and EPA. The information will include: GIS shape file, facility address, North American Industry Classification System Code of the facility, production start-up date, facility overview/description, eligible material converted, type of fuel produced, environmental licensing and permitting status, harvesting schedule and frequency, threatened and endangered species habitat presence, intentions for tree planting and harvesting, and wetlands presence provided with sponsor certification.

The proposal is expected to detail these criteria with the following information and it is reviewed at the State level by State Forester and State Environmental Coordinator and at the National Level by an interagency team as well possibly consisting of representatives from DOE, NRCS, F&WS, FSA, USFS, and EPA:

- A clear description of the eligible land and eligible crops of each producer that will participate in the proposed BCAP project area, which includes specific geographic description using shape files, etc.;
- A letter of commitment from a biomass conversion facility that the facility will use the eligible crops intended to be produced in the proposed BCAP project area;
- Evidence that the biomass conversion facility has sufficient equity available, as determined by the Secretary, if the biomass conversion facility is not operational at the time the proposal is submitted to the State conservation specialist

A listing of BCAP project areas appears on the BCAP web page showing only project area ID number and geographic boundaries.

The information for the establishment and annual crop production payments are collected by a contract and worksheet (BCAP-24 and FSA-848 forms, respectively) and information will include: soil map data, acreage, farm, tract, & CLU (field) numbers, soil rental rates, soil survey ID number, participants' names, participant share holdings, conservation practices to be installed or used, contract period, and producer signature and certification.

The BCAP producers are using the existing AD-1026 and BCAP-817U forms. The AD-1026 form ensures that before producers clear, plow, or otherwise prepare areas not presently under crop production for planting, they certify that production that will not violate either Highly Erodible Land Compliance (HELC) or wetland conservation provisions. Most producers already have existing AD 1026 forms. In addition we also require producers to complete and submit the BCAP 817U form annually for the certification of compliance with BCAP.

Other forms are used as needed to facilitate payments for special circumstances, , joint payment authority (CCC-37 form), application for payment of amounts due to persons who have died or disappeared (FSA-325 form), power of attorney (FSA-211); member's information (CCC-901); report of acreage (FSA-578); and voluntary permanent direct and counter-cyclical program base reduction (CCC-505 form).

The purpose of BCAP project area designation and establishment payments and annual production payments are to stimulate and support the development of long term biomass feedstock that can be converted into heat, power, biobased products or advance biofuels. Producers within the project area are then eligible to enter contract acreage with USDA/FSA/CCC and receive annual production

payments for up to five years for annual and perennial crops and up to 15 years for woody crops. In addition producers of eligible perennial crops could receive reimbursement for up to 50 percent or \$500 per acre or \$750 per acre for socially disadvantaged farmers and ranchers of their establishment costs which include: cost of seed stock and stock, cost of planting, as determined by the Secretary, and in the case of non-industrial private forestlands, the cost of site preparation and tree planting.

For BCAP project area proposals, the information are collecting from project sponsors, either the BCF or a group of producers, and entered into a web based system by the State FSA office. The State FSA office notifies the National office of the recommended proposal for review and its entry into the database system. The proposal are reviewed by a National office proposal review team, similar to the State FSA office review team, consisting of FSA representatives, sister agency expertise in BCF infrastructure and feed stock supply, as well as environmental impact. The proposal will either be accepted as a project area designation or sent back to the State Office as incomplete. The approved proposals will be assigned a project ID number in a national data base system. Producers within these designated systems will then voluntarily supply information related to the BCAP establishment payment and annual payment worksheets and contracts to the County FSA office. The information will be entered into a web based FSA data base. This program will be available to producers and project sponsors for proposal and application until the authorization for BCAP sunsets. Producers may enter into contracts for a period of up to 5 years for the production of annual and perennial herbaceous crops and up to 15 years for woody perennial crops. Establishment payments are only available to producers that establish new perennial crops. These establishment and annual payments may be made to producers that have eligible land and are producing eligible crops, which are locate within a designated project area and that conform with biomass harvesting plans. Annual payment information will be linked to data base information concerning matching payments as to implement appropriate payment reductions.

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 forms are available at <http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home> for the public to electronically submit to FSA.

All information collected from eligible biomass owners will be transcribed into a FSA electronic database by FSA county staff. This information collection method was chosen due to FSA staff & patron familiarity with the process. All forms used for the producer establishment and annual production payments are similar to those forms used by other FSA Conservation programs including CRP. All forms will be web based. The 848 and 801 Forms will be used by the Emergency Conservation Program (ECP) but information collected will be used only for ECP and not BCAP, as users most often will not overlap. Information collected on AD-1047 and Agreement from biomass conversion facilities seeking to become a qualified facility will be emailed to FSA staff in Washington, D.C. where it will be entered into a FSA electronic database. Approximately 97 percent of the forms used will be available electronically.

Information collected for the BCAP project area applications and subsequent contracts with

producers for establishment and annual payments will also be entered into a FSA electronic web based database at the State and County office levels.

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.

The information collected on the forms used in the BCAP, and ECP are not duplicated by any other collection methods. The information relates specifically to practices and practice components that are designed specifically to the intentions on each program.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The information collected does not adversely impact small businesses or other small entities. There are about 5,900 small businesses or entities in this information collection.

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.

If this information is collected less frequently, FSA will not be able to make eligibility determinations and compute payments in a timely manner.

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; **Yes, if eligible biomass owners elect to collect matching payments more often than quarterly.**
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; **No**
- requiring respondents to submit more than an original and two copies of any document; **No**
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; **No**
- 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; **No**
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB; **No**
- 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 **No**
- 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. **No**

8. If applicable, provide a copy and identify the date and page number of publication in the

Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), 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. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Notice of Request for a revision of a currently approved information collection was published on August 21, 2023 at 88 FR 56792. FSA did not receive any comments on the collection.

The below agency personnel participated on a National Task Force and assisted with development and testing phase on the use of the forms in this collection. Each participant agrees that the new 801 forms series is a more streamlined approach to the 848 forms.

- Jana Ingwerson Laws, Nebraska State Office – 402-437-5883.
- Sarah Steinhilber, Minnesota State Office – 651-602-7724.
- Kellie Samuels, Kentucky State Office – 859-224-7640.

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

No payments or gifts are provided to respondents.

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

All information collected is treated as confidential. Agency policy prohibits the giving out of individual information. This information is handled according to the Privacy Act and Freedom of Information Act.

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 questions of a sensitive or personal nature are collected

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

See attached the Reporting and Recordkeeping Requirement spreadsheet.

The record keeping requirements associated with receiving cost-share payments and others would be maintained as normal business practices, and they have no burden impact.

Respondent cost per hour was derived by using U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2022, 11-9013 Farmers, Ranchers, and Other Agricultural Managers. The U.S. mean household income, as measured by the Bureau of Labor, is \$49.58. Fringe benefits for all private industry workers are an additional \$12.97, resulting in a total of \$62.55 per hour. The estimated cost is \$4,244,114 ($\$62.55 \times 67,852$).

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 of its expected useful life; and (b) a total operation and maintenance and purchase of services component.

There is no capital, startup or ongoing operation and maintenance costs associated with this information collection to respondents or record keepers.

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

The total estimated annual cost to the Federal government for program administration is \$24,573,755.

County employee cost per response is processing the forms about 30 minutes per form. The county employees average hourly wage is \$ 29.69 (based on 2023 General Schedule, Grade 7, Step 6). Fringe benefits for all government workers are an additional \$19.87, resulting in a total of \$49.56 per hour. The total annualized cost to the Federal Government is \$24,419,327.

BCAP and ECP Program Managers: GS-14 step 6 salary at \$154,428 per year.

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

Activity related to BCAP did not change since the last Office of Management and Budget (OMB) submission due to the lack of BCAP funding.

Activity related to ECP requests, approvals, and payments has increased due to major storm systems that caused catastrophic damage across the nation, from 2022–2023. Hurricane Fiona and Ian occurred in 2022. Multiple wildfires in 2022 and flood events in 2023 all contributed to the increase in activity. The new Cost-Share Request form for ECP is included in this request. The number of responses increased to 560,000 while the burden hours increased by 18,497 to cover the new Cost-Share Request form. The number of respondents remains 140,000 in the request.

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

For BCAP, a summary of total annual payments to and tons of biomass delivered by eligible biomass

owners and producers according to geographic distribution was published and a final report required by Congress. Qualified biomass conversion facility listings and BCAP project areas listings information has been made public by FSA County Offices and the FSA website.

For ECP, the number of applications filed and the number of approvals are not tabulated and published. However, at the end of each fiscal year, data are compiled which includes the number of farms and participants, practice accomplishments by units completed, and cost-shares earned. The data is published annually and used by managers responsible for the programs. The publication is also furnished to other agencies and others interested in the programs.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reason that display would be inappropriate.

FSA displayed the expiration date for OMB approval.

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

FSA is able to certify compliance with all provisions.