

initially than in FY's 2001 and 2002. Soybeans have been the predominant commodity for biodiesel payments to date. This is not likely to change substantially due to the expansion in eligible commodities. However, revisions in payment calculations will raise payment rates for animal fats and oils. This will increase incentives to use these commodities for biodiesel production.

List of Subjects in 7 CFR Part 1424

Administrative practice and procedure, Energy—bioenergy, Fuel additives, Gasohol, Oils and fats, Oilseeds, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, 7 CFR part 1424 is amended as set forth below:

PART 1424—BIOENERGY PROGRAM

■ 1. Part 1424 is revised to read as follows:

PART 1424—BIOENERGY PROGRAM

Sec.

- 1424.1 Applicability.
- 1424.2 Administration.
- 1424.3 Definitions.
- 1424.4 General eligibility rules.
- 1424.5 Agreement process.
- 1424.6 Payment application process.
- 1424.7 Gross payable units.
- 1424.8 Payment amounts.
- 1424.9 Reports required.
- 1424.10 Succession and control of facilities and production.
- 1424.11 Maintenance and inspection of records.
- 1424.12 Appeals.
- 1424.13 Misrepresentation and scheme or device.
- 1424.14 Offsets, assignments, interest and waivers.

Authority: 7 U.S.C. 8108, 15 U.S.C. 714b and 714c.

§ 1424.1 Applicability.

This part sets out regulations for the Bioenergy Program (program). It sets forth, subject to the availability of funds as provided herein, or as may be limited by law, the terms and conditions a bioenergy producer must meet to obtain payments under this program and part from the Commodity Credit Corporation (CCC) for eligible bioenergy production. Additional terms and conditions may be set forth in the document required to request program benefits and in the program contract or agreement prescribed by CCC. This program is effective October 1, 2002, through September 30, 2006.

§ 1424.2 Administration.

This part shall be administered by the Executive Vice President, CCC, under

the general direction and supervision of the Executive Vice President or designee. The Executive Vice President or a designee may authorize a waiver or modification of deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program, and may set such additional requirements as will facilitate the operation of the program. The funds available for the program shall be limited as set by this rule, otherwise announced by the Executive Vice President, CCC, or limited by law.

§ 1424.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration under this subpart.

Agreement means the Bioenergy Program Agreement or other form prescribed by CCC that must be executed for participation in the program.

Application means the application form prescribed by CCC or another form that contains the same terms, conditions, and information required.

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

Base production means a biodiesel producer's current FY's biodiesel production from eligible commodities that is not an increase over biodiesel production in the previous FY to date.

Biodiesel means a mono alkyl ester manufactured in the United States and its territories that meets the requirements of an appropriate American Society for Testing and Materials Standard.

Biodiesel producer means a producer that produces and sells biodiesel who is also registered and in compliance with section 211 (b) of the Environmental Protection Agency Clean Air Act Amendment of 1990.

Bioenergy means ethanol and biodiesel produced from eligible commodities.

Conversion factor means:

(1) For ethanol production, a factor that converts the number of ethanol gallons back to commodity units as determined in the manner announced by CCC;

(2) For biodiesel production, the factor that will treat 1.4 gallons of biodiesel produced as having involved the consumption of one bushel of soybeans in any case when the feedstock was an eligible commodity that has a corresponding oil or grease market price; if there is none, then the factor shall be as determined and announced by CCC.

Eligible commodity means barley; corn; grain sorghum; oats; rice; wheat; soybeans; cotton seed; sunflower seed; canola; crambe; rapeseed; safflower; sesame seed; flaxseed; mustard seed; cellulosic crops, such as switchgrass and hybrid poplars; fats, oils, and greases (including recycled fats, oils and greases) derived from an agricultural product; and any animal byproduct (in addition to oils, fats and greases) that may be used to produce bioenergy, as CCC determines, that is produced in the United States and its territories.

Eligible producer means a bioenergy producer who meets all requirements for program payments.

Ethanol means anhydrous ethyl alcohol manufactured in the United States and its territories and sold either:

(1) For fuel use, rendered unfit for beverage use, produced at a facility and in a manner approved by ATF for the production of ethanol for fuel; or

(2) As denatured ethanol used by blenders and refiners and rendered unfit for beverage use.

Ethanol producer means a person authorized by ATF to produce ethanol.

FSA means the Farm Service Agency, USDA.

FY means the fiscal year beginning each October 1 and ending September 30 of the following calendar year.

KCCO means the FSA, Kansas City Commodity Office.

Posted County Price means the same Posted County Price for different locations as is used under other CCC commodity programs for marketing loan gains and other matters.

Producer is a legal entity (individual, partnership, cooperative, or corporation, etc.) who is a commercial bioenergy producer making application or otherwise involved under this program.

Quarter means the respective time periods of October 1 through December 31, January 1 through March 31, April 1 through June 30, and July 1 through September 30 of each FY, as applicable.

Sign-up period means the time period announced by CCC during which CCC will accept program agreements.

USDA means the United States Department of Agriculture.

§ 1424.4 General eligibility rules.

(a) An applicant must be determined eligible by KCCO and be assigned an agreement number.

(b) To be eligible for program payments, a producer must maintain records indicating for all relevant FY's and FY quarters:

(1) The use of eligible commodities in bioenergy production;

(2) The quantity of bioenergy produced from an eligible commodity by location;