

## Commodity Credit Corporation, USDA

## § 1424.4

and biodiesel production which is produced in the United States and its territories.

*Eligible producer* means a bioenergy producer who has been determined by CCC to be eligible to receive Program payments and has entered into an Agreement with CCC.

*Ethanol* is anhydrous ethyl alcohol manufactured in the United States and sold:

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

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

*Ethanol producer* is a producer that has authority from the ATF to produce ethanol.

*FSA* means the Farm Service Agency, USDA.

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

*Gallon Conversion factor* shall be:

(1) 2.5 bushels, unless otherwise determined through review of an individual Program participant by CCC, of ethanol produced per bushel of corn used in ethanol production;

(2) 1.4 bushels, unless otherwise determined through review of an individual Program participant by CCC, of biodiesel per bushel of soybeans used in biodiesel production; or

(3) As determined by CCC for other eligible commodities.

*KCCO* means Kansas City Commodity Office.

*Producer* is a legal entity (individual, partnership, cooperative, or corporation, etc.) who is a commercial bioenergy producer making application 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.

*USDA* means the United States Department of Agriculture.

### § 1424.4 General eligibility rules.

To obtain Program payments, a producer must do all of the following:

(a) Obtain an Agreement, Form CCC-850, from the KCCO, Contract Reconciliation Division, STOP 8758, P.O. Box 419205, Kansas City, Missouri 64141-6205 or via the internet at: [www.fsa.usda.gov/daco/bioenergy/bioenergy.htm](http://www.fsa.usda.gov/daco/bioenergy/bioenergy.htm);

(b) Submit a completed Agreement, Form CCC-850, to CCC no later than October 1 of each year or a later date, if announced by CCC, to KCCO, Contract Reconciliation Division, STOP 8758, P.O. Box 419205, Kansas City, Missouri 64141-6205;

(c) Be assigned an Agreement number by KCCO indicating the producer is eligible for program payments;

(d) Maintain records indicating:

(1) Commodities for which it seeks payment;

(2) The quantity of bioenergy produced from an eligible commodity by location during the quarter FY to date compared to the same time period in the previous FY; and

(3) The quantity of eligible commodity used to produce the bioenergy stated in paragraph (d)(2) of this section during the quarter FY to date compared to the same time period in the previous FY;

(e) Furnish CCC such certification, and access to such records, as CCC considers necessary to verify compliance with Program provisions;

(f) Make Application submissions in accordance with § 1424.9;

(g) If not purchasing raw commodity input, be able to prove to CCC's satisfaction that both the producer's net purchases of eligible commodities and net production of bioenergy increased as compared to such production at all locations during the relevant base period. Except as otherwise provided for by CCC, the increase in production must equal or exceed that amount of energy production which would be calculated using the gross amount of agricultural commodities which forms the basis of the payment and the conversion factor set out in § 1424.2. Example: A producer that purchases soy oil from a soybean crushing plant for further refinement into biodiesel must be able to prove to CCC's satisfaction that both soy oil purchases and biodiesel production increased for the applicable quarter;

## § 1424.5

(h) Certify the accuracy and truthfulness of the information provided in their Agreement on Form CCC-850; and

(i) Allow verification by CCC of all information provided. Refusal to allow CCC or any other agency of USDA to verify any information provided will result in a determination of ineligibility.

(j) Meet all other conditions for payment which are set out in the Agreement or in these regulations or otherwise.

### § 1424.5 Application process.

To receive payments under this program during a FY, an eligible producer must:

(a) Have an approved Agreement in accordance with §1424.4(b) and an Agreement number assigned by KCCO under §1424.4(c);

(b) Obtain an Application, Form CCC-850-A, from the KCCO, Contract Reconciliation Division, STOP 8758, P.O. Box 419205, Kansas City, Missouri 64141-6205 or via the internet at: [www.fsa.usda.gov/daco/bioenergy/bioenergy.htm](http://www.fsa.usda.gov/daco/bioenergy/bioenergy.htm);

(c) Submit applications for each quarter. Submit the last quarterly application of the FY within 30 calendar days of the end of the FY for which payment is requested. If the actual deadline is a non-workday, the deadline will be the next business day;

(d) Submit other relevant documents as required by CCC for the specific commodity; and

(e) Certify with respect to the accuracy and truthfulness of the information provided.

### § 1424.6 Eligibility determinations.

(a) Applicants will, after Agreements are submitted, if:

(1) Determined eligible, receive notification of eligibility;

(2) Determined ineligible, be notified in writing of ineligibility for program participation and reason for the determination; or

(3) Additional information is needed for CCC to determine eligibility, be contacted for additional supporting documentation.

(b) Applicants will, after Applications are submitted, if:

## 7 CFR Ch. XIV (1-1-01 Edition)

(1) Determined eligible, receive payment;

(2) Determined ineligible, be notified in writing of ineligibility for payment and reason for determination; or

(3) Additional information is needed for CCC to determine eligibility, be contacted for additional supporting documentation.

### § 1424.7 [Reserved]

### § 1424.8 Payment amounts.

(a) Eligible producer may be paid the amount specified in this section, subject to the availability of funds. Funds shall be considered available only to the extent determined appropriate by CCC. Unless otherwise determined by CCC, that amount shall be no more than \$150 million in FY 2001 and no more than an additional \$150 million in FY 2002.

(b) Eligible producer must sign an agreement to participate. Such an agreement must be signed during the designated sign-up period. Thereafter, producers must file a report of their production at all locations for the program year to date through the respective quarter for each such report. Such reports must comply with the terms of the agreement and these regulations.

(c) Persons will be eligible for payments only to the extent that their production of eligible energy from eligible inputs is, for the program year to date, as compared to the comparable portion of the previous year, in excess of their total comparable production at all locations. Producers will not be paid twice for the same increase and any decline in relative production between quarters will require a comparable refund as specified below. That is, for example, if a producer were to be paid, at the end of the first quarter, for an increase of 500 units of energy production, but by the end of the second quarter that producer's production, for the year to date, was down to a net increase for the year of 450 units, then a refund would be due for the loss of the corresponding 50 units of net extra production. For these purposes unless CCC shall agree otherwise in order to facilitate the program, "all locations" for these and other purposes within these