

**APPENDIX A:  
Notice of Funds Availability**

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## Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF AGRICULTURE

#### Commodity Credit Corporation

RIN 0560-AH92

#### Notice of Funds Availability (NOFA) for the Collection, Harvest, Storage, and Transportation of Eligible Material

**AGENCY:** Commodity Credit Corporation and Farm Service Agency, USDA.

**ACTION:** Notice.

**SUMMARY:** This NOFA announces that funds are being made available beginning in 2009 for certain provisions of the Biomass Crop Assistance Program (BCAP) established by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), in order to provide matching payments to certain persons or entities for the collection, harvest, storage, and transportation (CHST) of eligible material delivered to qualified biomass conversion facilities.

**DATES:** We will consider comments on the information collection that we receive by August 10, 2009.

**ADDRESSES:** We invite you to submit comments on the NOFA and the related information collection that is described in the Paperwork Reduction Act section. In your comment, include the date, volume, and page number of this issue of the **Federal Register**. All comments will become a matter of public record.

You may submit comments by any of the following methods:

- **Mail:** Farm Service Agency (FSA), USDA, ATTN: Mike Linsensbigler, Acting Director, Conservation and Environmental Programs Division, STOP 0513, 1400 Independence Ave., SW., Washington, DC 20250.

- **E-mail:** Send comment to: [mike.linsensbigler@wdc.usda.gov](mailto:mike.linsensbigler@wdc.usda.gov).
- **Fax:** (202) 726-4619.

For comments on the information collection, you may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory

Affairs, Office of Management and Budget, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Mike Linsensbigler, (202) 720-6221.

**SUPPLEMENTARY INFORMATION:** Section 9001 of the 2008 Farm Bill (Pub. L. 110-246) amends Title IX of the Farm Security and Rural Investment Act of 2002 by adding section 9011 to authorize BCAP. The purpose of BCAP is to assist agricultural and forest land owners and operators with the collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility and to support the establishment and production of eligible crops for conversion to bioenergy in selected BCAP project areas.

On May 5, 2009, the President issued a Presidential Directive to Secretary of Agriculture Tomas R. Vilsack to aggressively accelerate the investment in and production of biofuels (published in the **Federal Register** on May 7, 2009 (74 FR 21531-21532)). Secretary Vilsack also announced that he will help lead an unprecedented interagency effort to increase America's energy independence and spur rural economic development.

The Presidential directive requests that Secretary Vilsack take steps to the extent permitted by law to expedite and increase production of and investment in biofuel development efforts by, among other things, making renewable energy financing opportunities from the 2008 Farm Bill available within 30 days, which includes guidance and support for collection, harvest, storage, and transportation assistance of eligible materials for use in biomass conversion facilities.

This NOFA represents the first in a multi-step process to implement BCAP and is published to provide guidance for interested parties on CHST pursuant to the Presidential Directive. In conjunction with this NOFA, FSA will be undertaking public meetings pursuant to the notice published on May 13, 2009, for the preparation of an Environmental Impact Statement (EIS) for BCAP (74 FR 22510-22511). FSA requested public comments and is holding six public meetings throughout the nation. Comments for consideration must be received by June 12, 2009. Comments may be e-mailed to [bcapeis@geo-marine.com](mailto:bcapeis@geo-marine.com) or faxed to (757) 673-3703. Mail comments to:

BCAP EIS c/o Geo-Marine, Inc., 2713 Magruder Boulevard, Suite D, Hampton, Virginia 23566. CCC initially solicited comments on a proposed EIS in the **Federal Register** on October 1, 2008 (73 FR 57047-57048). FSA will be incorporating the public comments from the public meetings, other public comments previously submitted and those comments submitted in response to this NOFA into rulemaking for CHST later this year. Finally, the full EIS and all comments and lessons learned from three BCAP notices (including this NOFA) will be incorporated into the rulemaking for the entire BCAP program, which will include CHST.

#### General Discussion

This NOFA provides a general discussion of the provisions that will be used to administer payments for the collection, harvest, storage, and transportation of eligible material delivered to qualified biomass conversion facilities in advance of the rule on BCAP (including CHST). In particular it provides policies and processes for (1) providing payments for the collection, harvest, storage, and transportation of eligible material to qualified biomass conversion facilities and (2) qualifying CHST biomass conversion facilities. The CHST matching payment program as established in this NOFA will be implemented under the general direction and supervision of the Executive Vice President, CCC, and the Deputy Administrator for Farm Programs, FSA (Deputy Administrator). On an individual case basis, the Deputy Administrator may consider granting an exception to requirements of this NOFA if the exception is not inconsistent with the 2008 Farm Bill requirements or other applicable law and it will not adversely affect the CHST matching payments program. Section 9011 (d) and (f) provides authority to use such sums as necessary of CCC funds to carry out BCAP, including for CHST matching payments.

The purpose of the CHST matching payment program is to assist eligible persons or entities with the collection, harvest, storage, and transportation of eligible material delivered for use in a CHST-qualified biomass conversion facility in advance of full implementation of BCAP. Through the CHST matching payment program CCC



will provide payments at a rate of \$1 for each \$1 per dry ton paid by the CHST-qualified biomass conversion facility to the owner for delivery of eligible material to the facility in an amount not to exceed \$45 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 CHST-qualified biomass conversion facility who possess the right to collect or harvest eligible material and are considered the owners of the eligible material.

#### Definitions

The following definitions will be used for CHST:

*Arm's-length transaction* means a transaction between ready, willing, and able disinterested parties who are not affiliated with or related to each other and have no security, monetary, or stockholder interest in each other, with the exception that members of either (1) an association of agricultural producers or (2) farmer cooperative organizations, or (3) a farmer cooperative, may deliver and sell at market rates eligible material to such associations, organizations or cooperatives they have a monetary or stockholder interest in and such transaction may be considered arm's-length transactions.

*Bill of lading* means a document issued by a carrier to a shipper, acknowledging that specified goods have been received on board as cargo for conveyance to a named place for delivery to the consignee who is usually identified (also known as a "BOL" or "B/L").

*Biobased CHST product* means a product, determined by the Deputy Administrator to be a commercial or industrial product (other than food or feed) that is:

- (1) Composed in whole, or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials or
- (2) An intermediate ingredient or feedstock.

Biobased product does not mean commercially produced timber, lumber, wood pulp or other finished wood products.

*Biomass conversion facility* means a facility that converts or proposes to convert eligible material into:

- (1) Heat,
- (2) Power,
- (3) Biobased products, or
- (4) Advanced biofuels.

CCC stands for the Commodity Credit Corporation.

*CHST* stands for collection, harvest, storage, and transportation activities or, some combination thereof, for eligible material.

*CHST matching payments* means those CCC payments provided at a rate of \$1 for each \$1 per dry ton paid by the CHST-qualified biomass conversion facility to the owner for delivery of eligible material to the facility in an amount not to exceed \$45 per dry ton pursuant to this NOFA.

*CHST matching payment program* means the program established by this NOFA for the collection, harvest, storage, and transportation of eligible material delivered to a qualified biomass conversion facility.

*CHST qualified biomass conversion facility* means a biomass conversion facility that meets all the requirements for qualification outlined in this NOFA, for which the facility owners enters into a memorandum of understanding (MOU) for such facility qualification with the Deputy Administrator.

*Deputy administrator* refers to the FSA Deputy Administrator for Farm Programs, FSA, or a designee.

*Eligible material* is, for purposes of the CHST matching payment program, renewable biomass with the following exclusions:

- (1) Harvested grains, fiber, or other commodities eligible to receive payments under Title I of the 2008 Farm Bill;
- (2) Animal waste and animal waste-byproducts including fats, oils, greases, and manure;
- (3) Food waste and yard waste; or
- (4) Algae.

*Eligible material owner*, for purposes of the CHST matching payment program, means a person having the right to collect or harvest eligible material and that has delivered the eligible material to a CHST qualified biomass conversion facility and including:

- (1) For eligible material collected from private lands, including cropland, the owner of the land, the operator or producer conducting farming operations on the land, or any other person designated by the owner of the land and
- (2) For eligible material collected from public lands, those persons with the right to collect eligible material pursuant to a contract or permit with the Forest Service or other appropriate Federal agency, such as a timber sale contract, stewardship contract or agreement, service contract or permit, or related applicable Federal land permit or contract, and who have submitted the permit or contract authorizing such collection for reproduction by FSA.

EPA refers to the U.S. Environmental Protection Agency.

*Farm cooperative* means a farmer- or rancher-owned and controlled business from which benefits are derived and distributed equitably on the basis of use by each of the farmer or rancher owners.

*Farmer cooperative organization* means a cooperative organization or an entity, not chartered as a cooperative that operates as a cooperative in that it is owned and operated for the benefit of its members, including the manner in which it distributes its dividends and assets.

*Food waste* means a material composed primarily of food items, or originating from food items, or compounds from domestic, municipal, food service operations, or commercial sources, including food processing wastes, residues, or scraps.

FSA refers to the Farm Service Agency.

*Indian Tribe* has the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

*Institution of higher education* has the same meaning as in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).

*Intermediate ingredient or feedstock* means an ingredient or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials), or forestry material that are subsequently used to make a more complex compound or product.

*Renewable biomass* is defined for purposes of the CHST matching payment program to include the following:

- (1) Materials, pre-commercial thinnings, or invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that:

- (a) Are byproducts of preventive treatments that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health;

- (b) Would not otherwise be used for higher-value products; and

- (c) Are harvested in accordance with applicable law and land management plans and the requirements for old-growth maintenance, restoration, and management direction of section 102 (e)(2), (3), and (4) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512) and large-tree retention of subsection (f) or

- (2) Any organic matter that is available on a renewable or recurring



basis from non-Federal land or land belonging to an Indian or Indian Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including: Renewable plant material (including feed grains, other agricultural commodities, other plants and trees, algae), and waste material (including crop residue, other vegetative waste material (including wood waste and wood residues), animal waste and byproducts (including fats, oils, greases, and manure), food waste, and yard waste).

*United States and Territories* means any of the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

*Yard waste* means material composed primarily of yard maintenance, cleanup materials, or debris removal items, originating from residential, municipal or commercial yards, lawns, landscaped areas, or related sites.

#### **The CHST Matching Payment Program**

##### *Eligibility Requirements*

Organic matter meets eligibility requirements to be considered renewable biomass when collected and harvested from:

- (1) The National Forest System;
- (a) Except from lands designated as components of the Wilderness Preservation System or the Wild and Scenic River System, or as a National Monument, or composed of inventoried roadless areas;
- (b) Except for biomass collection, harvesting, and transport conducted by an Eligible Material Owner who has an existing contract or grant, issued by the USDA Forest Service for the sale or removal of the material; and
- (c) Subject to all laws and regulations that apply to the Forest Service, including the Endangered Species Act and environmental analysis as required by the National Environmental Policy Act (NEPA). All required environmental analysis must be completed and approved by the responsible official. All renewable biomass collected or harvested from Federal lands must be conducted through a contract or permit;
- (2) Tribal, State, and other government locally owned land where biomass collection and harvesting is done within applicable environmental requirements, and all applicable Tribal, State or local government ordinances and permits;

(3) Cropland where biomass collection and harvesting is consistent with conservation plans required for highly erodible land under the Food Security Act of 1985, as amended;

(4) Non-industrial private forest land where biomass collection and harvesting is done in accordance with a forest stewardship plan, described in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a), another practice plan approved by the State Forester, or a Forest Stewardship Plan developed by the State Forester, in those locations where such plans are available from State foresters for non-industrial private forest land owners at no expense to CCC; or

(5) Privately owned land, other than cropland, including pastureland, rangeland, other non-cropland, or non-industrial forest land where biomass collection and harvesting is done within applicable environmental requirements, and all applicable Tribal, State or local ordinances and permits.

CHST matching payments are not authorized for:

- (1) Any eligible material delivery made before the publication of this NOFA;
- (2) Any eligible material delivery made before the initial application for CHST matching payments is received and approved by FSA-COC; or
- (3) Any scheme or device used to circumvent the provisions of this NOFA and related program requirements.

##### *Applying To Be an Eligible Material Owner*

A person who meets the definition of "eligible material owner" needs to apply to FSA; through the application, FSA will register the eligible material owner, make the determination that the person does meet the definition, and based on information provided in the application determine the amount of biomass for which the eligible material owner will be able to apply for CHST matching payments.

Eligible material owners may apply at the county FSA offices where their farm records are located. If farm records have not been established, the application must be filed with the county FSA office that is administratively responsible for the geographic location where the renewable biomass was harvested. (See <http://www.fsa.usda.gov/FSA/stateOffices?area=stoffice&subject=landing&topic=landing> for assistance in locating a county office).

Eligible material owners who deliver eligible material to multiple CHST qualified biomass conversion facilities must submit a separate application for

each facility for which eligible material is delivered.

Ineligible or incomplete applications will be denied. If an application is determined to be ineligible for any reason, the Agency will inform the applicant, in writing, of the reasons and provide any applicable appeal rights.

Eligible material owners must submit applications using form AD-245, page 1, to the applicable FSA county office. The request must be submitted and approved by the FSA county office before the eligible material is delivered and any payment received by the facility for the eligible material.

Applications must include the following estimates based on amounts obtained from contracts, agreements, and/or letters of intent required by this NOFA:

- (1) An estimate of the total tons of eligible material expected to be sold to a certified biomass conversion facility;
- (2) The type or types of eligible material that is expected to be sold;
- (3) The name of the CHST qualified biomass conversion facility that will purchase the eligible material;
- (4) The expected per ton price the owner plans to receive for the delivery of the eligible material; and
- (5) The date or dates the eligible material is expected to be delivered to the facility.

##### *Applying for CHST Matching Payments*

After delivery, eligible material owners must submit AD-245, page 2, to notify the FSA Office at the County USDA Service Center and request the CHST matching payment. CHST matching payments will be disbursed only after delivery is verified by the FSA Office at the County USDA Service Center. All CHST matching payments will be issued by direct deposit unless other arrangements are made by the FSA Office at the County USDA Service Center and eligible material owner.

To receive CHST matching payments, eligible material owners must submit an application at the county FSA office and include:

- (1) A copy of the original scale ticket (or tickets), clearly indicating the total actual tonnage delivered and signed by the manager or owner or of the CHST qualified biomass conversion facility, as well as a total dry-weight tonnage equivalent amount determined by the CHST qualified biomass conversion facility using accurate moisture measuring equipment;
- (2) A copy of each invoice or paper check, reflecting the total payment received for delivery of the eligible material; each invoice or check must also be annotated and initialed by the



manager or owners of the CHST qualified biomass conversion facility clearly indicating the per-ton payment rate the facility paid the owner for the eligible material delivery;

(3) If applicable, a copy of each bill of lading issued by any third party carrier for delivery of the eligible material to the certified biomass conversion facility;

(4) Any other additional documents or records determined necessary by the Deputy Administrator to verify eligibility for matching payment.

#### *CHST Matching Payment Provisions*

The CHST matching payment program will operate under the following provisions:

(1) Under the CHST matching payment program, CCC may make a payment for the delivery of eligible material to CHST qualified biomass conversion facilities to a person with the right to collect or harvest eligible material.

(2) CHST matching payments may be available only for a period of two years and will be paid at a rate of \$1 for each \$1 per ton received from the CHST qualified biomass conversion facility for the commercial sale of eligible material in an amount equal to not more than \$45 per ton. All CHST matching payments are subject to Federal claims, Federal taxes as established by the IRS, and all other Federal payment restrictions and laws.

(3) Any payment or portion thereof to any person will be made without regard to questions of title under State law and without regard to any claim or lien against the eligible material, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found in 7 CFR part 1403 will be applicable to the payments.

(4) Any participant who may be entitled to any payment under this program may assign the right to receive such payments, in whole or in part, as provided in 7 CFR part 1404.

(5) All policies and procedures used to administer the determinations and payments for the CHST matching payment program are subject to the provisions of this NOFA.

(6) CHST matching payments are available to an eligible material owner only for a 2-year duration. Only one owner will receive the CHST matching payment for any eligible material.

(7) Owners of eligible material will be allowed to request CHST matching payment for eligible material delivered to and purchased by a CHST qualified biomass conversion facility. Under the 2-year limit duration, the time period

will begin immediately after form AD-245 is first approved by the FSA county office for the CHST matching payment and will end 24 months later. No payments or other direct benefits are authorized to be paid to the CHST-qualified biomass conversion facilities under this NOFA, except when the facility owners are also an owner of eligible material and deliver and sell it to another facility under an arms-length transaction.

(8) More than twenty percent of the funds utilized under this Notice will be for matching payments to eligible material owners for the collection, harvest, storage and transportation of crop residue from commodities eligible to receive payments under Title I of the 2008 Farm Bill.

#### *CHST Qualified Biomass Conversion Facility Requirements*

To be considered a CHST qualified biomass conversion facility, the biomass conversion facility must enter into a Memorandum of Understanding with CCC and meet all these requirements as determined by CCC:

(1) The facility must meet the definition of a biomass conversion facility;

(2) The facility must meet all applicable regulatory and permitting requirements by applicable Federal, State, or local authorities;

(3) The facility owners and managers must agree in writing to:

(a) Maintain accurate records of all eligible material purchases and related documents regardless of whether CHST matching payments will be sought and

(b) Make available at one place and at all reasonable times for examination by representatives of USDA, all books, papers, records, contracts, scale tickets, settlement sheets, invoices, written price quotations, or other documents related to the program that are within the control of the facility for not less than 3 years from the application date;

(4) The facility must agree that post-qualification, general information about the facility and its eligible material will be made public by USDA and other entities;

(5) The facility must be an entirely separate legal entity from owners of eligible material who conduct purchases of eligible material from the owners for biomass acquisition using arms-length transactions;

(6) The facility must agree to clearly indicate on the scale ticket the actual tonnage delivered, have the manager or owner of the facility sign the scale ticket, and provide it to the eligible biomass owner. The facility must also agree to provide a total dry-weight

tonnage equivalent to the eligible biomass owner;

(7) The facility must have access to commercial freight scales that are certified for accuracy by applicable State or local authorities and accurate moisture measurement equipment to determine the dry ton weight equivalent of actual tonnage delivered; and

(8) When a biomass conversion facility meets these terms and enters into an MOU 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 CHST qualified biomass conversion facilities. FSA county offices will also maintain a publicly available listing of CHST 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 the development of new and open markets for commercial eligible material sales transactions. This information will also be maintained on FSA's Internet site: <http://www.fsa.usda.gov/FSA/webapp?area=fsahome&subject=landing&topic=landing>.

#### **Appeals**

The administrative appeal regulations in 7 CFR parts 11 and 780 apply to this program.

#### **Administrative Procedure Act Statement**

This NOFA is being issued without advance rulemaking or public comment. The Administrative Procedure Act ("APA", 5 U.S.C. 553), has several exemptions to rulemaking requirements. Among them is an exemption for matters relating to Federal benefits, but under the provisions of the "Statement of Policy of the Secretary of Agriculture effective July 24, 1971," issued by Secretary Hardin in 1971 (36 FR 13804, the "Hardin Memorandum"), the Department will normally engage in rulemaking related to Federal benefits despite that exemption. However, the Hardin Memorandum does not waive certain other APA-contained exemptions, in particular the "good cause" exemption found at 5 U.S.C. 553(b)(3)(B), which allows effective government action without rulemaking procedures where withholding the action would be "impracticable, unnecessary, or contrary to the public interest." The Hardin memorandum specifically provides for the use of the "good cause" exemption, albeit sparingly, when a substantial basis for so doing exists, and where, as will be



described more fully below, that substantial basis is explained.

Such would be the case here, in that this NOFA provides guidance for the CHST matching payments program as part of a process that will include rulemaking later this year. Additionally, this NOFA simply makes funds available in accord with a statutory mandate. USDA has determined that making these funds available as soon as possible is in the public interest. Withholding this NOFA to provide for public notice and comment would unduly delay the provision of benefits associated with this program. Should the actual practice of the program produce reasons for program modifications, those modifications can be brought to the attention of the Department and changes made in the future rulemaking process. The CHST matching payment program provisions will be included, with potential modifications, in rulemaking later this year. Delay caused by normal rulemaking procedures under the APA would frustrate the accomplishment of the purposes of the statutory provisions and would not produce benefits for this fiscal year.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, through this notice, FSA is requesting comments from all interested individuals and organizations on a new information collection for CHST; this notice opens a 60-day comment period for the information collection requirements in this NOFA. While this notice requests comments on the information collection activities required for CHST, in order to meet the time frames mandated by the Presidential Memorandum discussed above, FSA submitted the following information collection request to the Office of Management and Budget (OMB) under the emergency procedure in accordance with the Paperwork Reduction Act of 1995. As discussed above in the APA section, there is good cause to forgo any delay associated with the opportunity for advance public comment. After OMB approval, the approved burden hours will be incorporated into the existing approval under OMB control number 0560-0082, which includes much of the same information for other conservation programs. CHST will provide financial assistance for CHST of eligible material for use in a biomass conversion facility in accordance with the 2008 Farm Bill.

Copies of all forms, regulations, and instructions referenced in this NOFA may be obtained from FSA. Data furnished by the applicants will be used

to determine eligibility for program benefits. Furnishing the data is voluntary; however, the failure to provide data could result in program benefits being withheld or denied.

*Title:* BCAP CHST.

*OMB Control Number:* 0560-NEW.

*Type of Request:* New.

*Abstract:* This information collection is needed to comply with section 9011 (b)(2) of Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101-8113), which was added by the 2008 Farm Bill.

FSA employees will enter the application information from completed paper forms into the electronic AD-245 Application for Cost-Share form, which is currently approved under OMB control number 0560-0082 for other conservation programs. The AD-245 form will collect information about the owners of eligible material and estimated and actual biomass material sold and delivered to a qualified biomass conversion facility in order to approve applications for CHST matching payments and to calculate matching payments after sale and delivery. CHST will also use the existing AD-1047 Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions form. The AD-1047 form will help ensure that only those owners and managers of qualified biomass conversion facilities and those owners of eligible material who have not been disbarred, suspended, or otherwise made ineligible for Federal transactions are not qualified or determined eligible for BCAP. The AD-1047 will require the owners to certify that they are in compliance and not subject to disbarment or suspension. The information collection activities for CHST will include the following:

(1) Applicants will request to be qualified as a CHST-qualified biomass conversion facility and

(2) Applicants will register as an eligible material owner and then, after delivery of eligible material, request CHST matching payments for the collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

Specific descriptions of the information requirements are discussed in this NOFA above under the application sections. Applicants will submit estimated to register as eligible material owners and actual delivery information to request CHST matching payments. If the Deputy Administrator determines that additional information is necessary from an eligible material owner, it will be related information required to determine eligibility, ensure

the ability to make proper payments, or to otherwise legally provide benefits to an eligible material owner.

*Estimate of Burden:* Public reporting burden for the collection of information is estimated to average half an hour per response for applicants requesting (1) qualification as a CHST-qualified biomass conversion facility and (2) CHST matching payments for collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility. The estimate is based on estimated completion of applicable sections of a memorandum of understanding, preparation of an AD-1047, and attaching required copies of permits and related certifications. The average travel time, which is included in the total burden, is estimated to be 1 hour per respondent.

*Respondents:* Individuals, Indian Tribes, units of State or local government, partnerships, corporations, farm cooperatives, farmer cooperative organizations, associations of agricultural producers, national laboratories, institutions of higher education, rural electric cooperatives, public power entities, consortia of any of these entities, and any other legal entities.

*Estimated Number of Respondents:* 5,600.

*Estimated Number of Responses per Respondent:* 4.

*Estimated Total Annual Burden on Respondents:* 42,000.

We are requesting comments on all aspects of the information collection to help us to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

#### Other Provisions

The CHST matching payments will be subject to environmental compliance including NEPA compliance for all eligible material removed from Federal lands pursuant to existing Forest Service procedures, Forest Stewardship



Plans for eligible material collected and harvested from private forest land, and Conservation plans and conservation compliance for eligible material collected or harvested from cropland.

Additionally, those lessons learned through operation of the CHST matching payment program will be combined with all comments, analysis, and other information and will be applied in rulemaking later this year.

**Scheme or device:** If it is determined by CCC that a person has employed a scheme or device to defeat the purposes of this program, any part of any program payment otherwise due or paid such person during the applicable period may be required to be refunded with interest as determined appropriate by CCC. Any eligibility determination of a biomass conversion facility that was based, in whole or part, on a scheme or device will be rescinded. A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of a payment, or obtaining a payment that otherwise would not be payable.

**Filing of false documents:** If it is determined by CCC that any participant has knowingly supplied false information or has knowingly filed a false claim for payment or facility certification, such participant will be ineligible for payments or certification with respect to BCAP and a refund of all prior payments issued under BCAP, including CHST, may be demanded. False information or false claims include, but are not limited to: Claims for payment for eligible material delivery that are filed with incorrect factual information or do not match actual eligible material deliveries and claims for certification intentionally filed with incorrect information or with false or otherwise inaccurate information. Any amounts paid under these circumstances must be refunded, together with interest as determined by CCC, and any amounts otherwise due such participant will be withheld. The remedies provided for in this NOFA are in addition to any and all other remedies, criminal or civil that may apply.

#### Federal Assistance Programs

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this NOFA applies is 10.087—Biomass Crop Assistance Program.

Signed in Washington, DC, on June 8, 2009.

**Douglas J. Caruso,**  
*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. E9-13724 Filed 6-8-09; 4:15 pm]

BILLING CODE 3410-05-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Oregon Coast Provincial Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Oregon Coast Province Advisory Committee will meet at the Grand Ronde Tribal Office. The agenda includes: Stimulus Project Update, Secure Rural Schools Update, Travel Management Update, Spotted Owl Plan Update, Round Robin, WOPR Update and Public Comments.

**DATES:** The meeting will be held June 18, 2009, beginning at 9:30 a.m.

**ADDRESSES:** Adult Educational Building, 9615 Grand Ronde Road, Grand Ronde, OR 97347. Google Map will put you in the correct parking lot.

**FOR FURTHER INFORMATION CONTACT:** Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 541-750-7075, or write to Siuslaw National Forest Supervisor, 4077 SW Research Way, Corvallis, OR 97339.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Council Discussion is limited to Forest Service/BLM staff and Council Members. Lunch will be on your own. A public input session will be at 2:45 p.m. for fifteen minutes. The meeting is expected to adjourn around 3 p.m.

Dated: June 3, 2009.

**Joni Quarnstrom,**  
*Public Affairs Specialist.*

[FR Doc. E9-13583 Filed 6-10-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**Agency:** National Oceanic and Atmospheric Administration (NOAA).

**Title:** Designation of Fishery Management Council Members and Application for Reinstatement of State Authority.

**OMB Control Number:** 0648-0314.

**Form Number(s):** None.

**Type of Request:** Regular submission.

**Burden Hours:** 4,607.

**Number of Respondents:** 146.

**Average Hours per Response:** 58 hours average for a nomination package for one to three candidates; 16 hours for a nominee to provide background documentation, and 1 hour for application of State authority over a fishery.

**Needs and Uses:** The Magnuson-Stevens Fishery Conservation and Management Act, as amended in 1996, provides for members of Fishery Management Councils by State governors and Indian treaty tribes, for the designation of a principal state fishery official for the purposes of the Act, and for a request by a state for reinstatement of state authority over a managed fishery. The information submitted with these actions will be used to ensure that the requirements of the Act are being met.

**Affected Public:** Individuals or households; State, Local or Tribal Government.

**Frequency:** Annually and on occasion.  
**Respondent's Obligation:** Mandatory.  
**OMB Desk Officer:** David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW, Washington DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov).

Dated: June 8, 2009.

**Gwellnar Banks,**  
*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E9-13700 Filed 6-10-09; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the



**APPENDIX B:**  
**Proposed Rule for Implementation of BCAP**

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# Federal Register

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Monday,  
February 8, 2010

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## Part II

### Department of Agriculture

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Commodity Credit Corporation

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7 CFR Part 1450  
Biomass Crop Assistance Program;  
Proposed Rule

## DEPARTMENT OF AGRICULTURE

## Commodity Credit Corporation

## 7 CFR Part 1450

RIN 0560-AH92

## Biomass Crop Assistance Program

**AGENCY:** Commodity Credit Corporation and Farm Service Agency, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Commodity Credit Corporation (CCC) proposes regulations to implement the new Biomass Crop Assistance Program (BCAP) authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). BCAP is intended to assist agricultural and forest land owners and operators with the establishment and production of eligible crops including woody biomass in selected project areas for conversion to bioenergy, and the collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility. This rule specifies the requirements for eligible participants, biomass conversion facilities, and biomass crops and materials. It also provides notice of final termination of the existing Notice of Funds Availability.

**DATES:** We will consider comments that we receive by April 9, 2010.

**ADDRESSES:** We invite you to submit comments on this proposed rule. In your comment, include the volume, date, and page number of this issue of the *Federal Register*. You may submit comments by any of the following methods:

- **E-Mail:** [cepdmail@wdc.usda.gov](mailto:cepdmail@wdc.usda.gov).
- **Fax:** 202-720-4619.
- **Mail:** Director of CEPD, USDA FSA CEPD, Stop 0513, 1400 Independence Ave., SW., Washington, DC 20250-0513.
- **Hand Delivery or Courier:** Deliver comments to Director of CEPD, Room 4709-S, 1400 Independence Ave., SW., Washington, DC.
- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Comments may be inspected at the mail address listed above between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this rule is available through the Farm Service Agency (FSA) home page at <http://www.fsa.usda.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Robert Stephenson at USDA, FSA, CEPD, STOP 0513, 1400 Independence Ave., SW., Washington, DC 20250-0513; telephone 202-720-6221; e-mail:

[cepdmail@wdc.usda.gov](mailto:cepdmail@wdc.usda.gov). Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at 202-720-2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:****Background**

Section 9001 of the 2008 Farm Bill authorizes the Biomass Crop Assistance Program (BCAP) to assist agricultural and forest land owners and operators with the collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility and to support the establishment and production of eligible crops for conversion to bioenergy in selected project areas. The 2008 Farm Bill also authorizes such sums as are necessary to carry out BCAP.

On May 5, 2009, the President issued a Presidential directive establishing a Biofuels Interagency Working Group (chaired by the Secretaries of Agriculture and Energy and the Administrator of the Environmental Protection Agency). Among other programmatic specific goals, the Presidential directive laid the groundwork for a policy development process that would aggressively accelerate the development of advanced biofuels (published in the *Federal Register* on May 7, 2009 (74 FR 21531-21532)). One aspect of the larger effort outlined in the memorandum is the issuance of guidance and support related to the collection, harvest, storage, and transportation of eligible materials for use in biomass conversion facilities—a component of the BCAP.

On June 11, 2009 (74 FR 27767-27772), we published in the *Federal Register* a BCAP notice of funds availability (NOFA) for the collection, harvest, storage, and transportation of materials (CHST). This proposed rule terminates the NOFA effective on the date the proposed rule is on public display at the Office of the Federal Register. On that date, USDA will notify the public that the NOFA is terminated and that FSA will no longer accept applications for matching payments under the NOFA.

We also held a series of public meetings, as described in a different notice published on May 13, 2009 (74 FR 22510-22511), to collect public input needed to prepare an environmental impact statement (EIS) for BCAP. As outlined in the NOFA, comments from the public meetings, other public comments previously submitted in response to the NOFA, the full EIS and all comments and lessons learned from the three BCAP notices

will be incorporated into the rulemaking for the entire BCAP program, which will include CHST. As such, this proposed rule covers the whole BCAP program, including both the provisions that provide matching payments for collection, harvest, storage, and transportation of materials and the provisions that provide payment for the establishment and production of biomass crops in selected project areas. It reflects comments received on the NOFA. CCC believes that the full BCAP should be viewed in a broader policy context which promotes the Administration's priorities for increasing the production of advanced biofuels, renewable energy and biobased products. Within this context, this proposed rule, which would implement the full BCAP, terminates the NOFA and makes necessary changes to the program in a manner that is consistent with the 2008 Farm Bill and encourages the development of bioenergy, including advanced biofuels, renewable energy, and biobased products.

As defined in this rule, "advanced biofuel" means fuel derived from renewable biomass other than corn kernel starch, including biofuels derived from cellulose, hemicellulose, or lignin; biofuels derived from sugar and starch (other than ethanol derived from corn kernel starch); biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste; diesel-equivalent fuel derived from renewable biomass including vegetable oil and animal fat; biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass; and butanol or other alcohols produced through the conversion of organic matter from renewable biomass and other fuel derived from cellulosic biomass.

**Discussion of Comments on NOFA**

Forty-seven comments were received in response to the NOFA. Commenters included a Tribe, State government agencies, an Embassy, individuals, non-profits, corporations, small businesses, entrepreneurs, public interest groups, Federal agencies and departments, academics, trade and industry associations, and cooperatives. Comments were received from all regions within the U.S. and from Canada and the United Kingdom.

Forty-six percent of the respondents were either a biomass conversion facility or represented biomass conversion facilities, the largest majority being from the wood pellet manufacturing industry.



Twenty-one percent of the respondents commented on the constraints that resulted from requiring an "arm's-length transaction." Most of those comments requested that the arm's-length transaction requirement either be removed or be reconstituted to enhance program flexibility and allow for a greater diversity of eligible material owner participation. CCC acknowledges the importance of ensuring a broad range of eligible materials in pursuing program goals, and is mindful of the constraints raised by the commenters. In order to provide appropriate safeguards to ensure transactions among disinterested parties, CCC proposes to replace the arm's length transaction language in the proposed rule with related-party transaction language.

Related-party transaction restrictions will not make ineligible stockholders of a privately or publicly held company who deliver eligible material to that company, nor make members of a cooperative who deliver eligible material to that cooperative ineligible. CCC requests additional comments on related-party transactions.

None of the parties in a related-party transaction for the purchase of eligible material are eligible for CHST matching payments as an eligible material owner.

Twenty percent of respondents opposed the requirement to measure biomass deliveries with real-time equipment that accurately records moisture levels to meet the dry-ton measurement standard. Most indicated that common industry practice is to measure in terms of green-tons with the general assumption of a moisture level of 45 to 50 percent. Based on these comments, CCC proposes to modify its requirement for moisture testing and adopt the industry-wide standard for measuring moisture. However, in all cases, the dry-ton equivalent remains.

Seventy-six percent of the comments concerned eligible materials, with 13 percent of those comments focused on conservation and forest stewardship plans related to eligible materials. These comments included commentary for and against the 20 percent cap on Title I crop agricultural residue. Most of those in favor of the cap remarked that it ought to be a complete ban to protect soils from wind and water erosion and that no agricultural residue should be removed without a conservation plan. Many of those in opposition to the cap stated that the cap of 20 percent only would drive up market prices on forest residue and allow forest residue to become the central supply for biomass conversion facilities. In this proposed rule, there is no 20-percent cap because it is inconsistent with the 2008 Farm

Bill. Regarding protecting land from wind and water, CCC proposes in this rule that BCAP contract participants will implement conservation plans, forest stewardship plans or equivalent plans that take into account site-level conservation needs. With regard to matching payment eligibility for agricultural and forest landowners and operators removing eligible material for use in a biomass conversion facility, such removal to receive matching payments must be done in compliance with any new, updated or existing conservation plans, forest stewardship plans or equivalent plans, as well as any existing environmental laws and regulations.

Other comments concerning the conservation plans included a desire to expand the requirement for conservation plans. Suggestions for elements of conservation plans included: target erosion rates far below "T" (soil loss tolerance) and compliance with new State ordinances on items such as buffers. This standard exceeds the level for highly erodible land, which is defined in 7 CFR part 12. Therefore, CCC did not adopt this comment and requests public comment on appropriate conservation standards for land enrolled in BCAP.

Comments concerning Forest Stewardship Plans offered alternative "equivalent plans" prescribed in the 2008 Farm Bill, such as plans under the American Tree Farm Program, the Sustainable Forestry Initiatives Program or State Best Management Programs. This comment is consistent with the 2008 Farm Bill and was accepted and reflected in this proposed rule.

Less than 10 percent of the comments urged FSA and CCC to consider miscanthus as an eligible material. Miscanthus is an eligible material; however, because some States may consider miscanthus a noxious weed, it may not be considered an eligible crop in those States.

Nearly 50 percent of the comments expressed a need for the eligibility time period for matching payments to be extended beyond two years. Rationale for these requests included the fact that certain contracts, such as a timber sale contract, have task orders and options that are not necessarily executed within a two-year time period and the need for equipment acquisitions or repairs sometimes interrupt harvesting. Two suggestions were given to tie the two-year limit to land tract instead of the eligible material owner.

The 2008 Farm Bill specified the two-year period for matching payments. However, CCC modified the beginning of the time period from the date of pre-

delivery approval to the date the first payment is issued. From that first date, matching payment obligations may occur for two years to an eligible material owner. CCC did not adopt the comment to change the two-year period from "eligible material owner" to "tract" because to do so would have been an extraordinary administrative burden on FSA that would have required extensive geographic-information-system-based software to monitor and control payments.

Nearly 20 percent of the commenting respondents were concerned with the economic market impact of BCAP. Comments included concerns that the introduction of the matching payment could impact the supply of commercial timber. Commenters did not agree on the impact; concerns were expressed that the impact would be negative, reducing supply, and positive, increasing supply. Similarly, commenters expressed concern that supply impacts would result in both favorable and unfavorable pricing impacts. Several respondents noted that the drop in the housing market has depressed the current supply of biomass and the matching payment, from their perspective, might help improve waste wood supply levels. Because these comments are of a general nature, CCC took no action on these comments.

Nearly 25 percent of the comments opposed the requirement to present scale tickets or a check to qualify the delivery and validate eligibility for a matching payment. The commenting parties indicated that the burden and cost of recording on each scale ticket was too high. CCC generally agrees with the comment and modified the requirement in § 1450.104(f) so the required information that must be submitted includes total actual tonnage delivered, total dry-weight tonnage-equivalent using standard moisture determinations, total payment including per ton payment rate(s) matched with actual tonnage, and the qualified biomass conversion facility's certification as to the authenticity of the information.

Comments on wildlife and plant life came from 15 percent of the respondents. Several comments indicated concern about ensuring standards for invasive and noxious species where eligible material was concerned. These comments suggested that CCC consult with USDA's Animal and Plant Health Inspection Service and the National Council for Invasive Species to address geographic-specific issues. "Eligible material" is a subset of renewable biomass and is specifically defined in the 2008 Farm Bill as the



material that is eligible for a matching payment. The 2008 Farm Bill does not restrict invasive and noxious species from eligibility, however, as discussed below, CCC will require that existing measures be taken and standing guidelines followed for any harvesting, collecting, storing or transporting of such material from such species.

"Eligible crops," however, are another subset of renewable biomass that refers to the kind and types of crops that may qualify for establishment and annual payments on land enrolled in BCAP. According to the 2008 Farm Bill, invasive and noxious species are not "eligible crops" and CCC will collaborate with other appropriate agencies and entities to ensure current listings are available.

Finally, in issuing the NOFA, we pledged to consider all public comments and incorporate relevant evidence from the full EIS as well as all lessons learned into the proposed rule that sets forth requirements for the overall BCAP. Based upon the Department's experience in implementing the component of the program authorized by the NOFA, certain changes are necessary to implement the program in a manner that is consistent with the 2008 Farm Bill, while also supporting the Administration's overall policy objective to encourage the development of advanced biofuels, renewable energy, and biobased products within the 2008 Farm Bill authority. The proposed rule will specifically seek public comment on how to best incentivize the development of advanced biofuels, renewable energy and biobased products from renewable biomass.

#### BCAP Overview

BCAP supports two main types of activities. First, it provides funding for agricultural and forest land owners and operators to receive matching payments for eligible material that is sold to qualified biomass conversion facilities for the production of heat, power, biobased products, or advanced biofuels. In this rule, these payments are referred to as "matching payments." The matching payment is intended to assist producers with the cost of collection, harvest, storage, and transportation of eligible material to the facility. Such payments to a particular participant may continue for up to two years after the first payment is issued. Second, BCAP provides funding for producers of eligible crops of renewable biomass within specified project areas to receive establishment payments of not more than 75 percent of the cost of establishment of eligible woody and

non-woody perennial crops, and annual payments for up to 15 years for the production of those crops. In this rule, these are referred to as "establishment and annual payments." To be eligible for payment, the establishment and production activities must take place in designated project areas, which may be proposed to CCC by biomass conversion facilities or by groups of producers. Production activities may include, but are not limited to, annual payments for producers who are unable to sell crop due to a reduction in the size or scope of a biomass conversion facility's operation or if a producer experiences crop failure caused by no fault of the producer but by a natural event such as drought, flooding or hail, as determined by CCC. Producers in project areas can be eligible for both types of payments; producers outside the project areas can be eligible for matching payments only. A table summarizing the major eligibility requirements for both types of payments is provided later in this rule.

#### Terms Used in This Rule

This rule uses the term "eligible material" for the renewable biomass that is eligible for the matching payment component of BCAP and "eligible crop" for renewable biomass that may be eligible for the establishment and annual payments component of BCAP. The 2008 Farm Bill uses these two terms in this way and defines them as including different kinds of renewable biomass. The use of the terms in this rule is consistent with the way the terms are used in the 2008 Farm Bill. With this rule, CCC intends to achieve better consistency between the requirements for eligible materials collected and harvested from public and private lands. In addition, CCC seeks to avoid diverting any materials potentially eligible for BCAP matching payments from existing value added production processes already occurring in the marketplace. Therefore, CCC proposes that vegetative wastes, such as wood waste and wood residues, collected or harvested from both public and private lands should be limited to only those that would not otherwise be used for a higher-value product. More specifically, for materials collected from both public and private lands, CCC is proposing to exclude from matching payment eligibility wood wastes and residues derived from mill residues (*i.e.* tailings, *etc.*) or other production processes that create residual byproducts that are typically used as inputs for higher value-added production (*i.e.* particle board, fiberboard, plywood, or other wood product markets). However, CCC is proposing to allow as eligible for

matching payments wood waste and residue derived from slash, pre-commercial operations, wet cordwood *etc.*) that is altered to chipped or similar form solely for the purposes of transport and delivery to eligible biomass conversion facilities. As specified in the 2008 Farm Bill and the regulations in 7 CFR part 1450, the eligible material owner may be a person or legal entity who is (1) a producer of an eligible crop or (2) has the right to collect or harvest eligible material and (3) a qualified biomass conversion facility that meets those requirements and the definition. As discussed in this rule, the matching payments will be made for the delivery of the eligible material.

The term "conservation district" is used as defined in 7 CFR part 1410.

This proposed rule uses the term "participant" for the matching payments component of BCAP and the terms "producer" and "participant" for the establishment and annual payments component of BCAP. The distinction is, an eligible participant for matching payments is not necessarily the person or legal entity who produced the material, but may be the person who owns it or has the authority to sell it to the biomass conversion facility. In other words, all BCAP producers are participants, but not all BCAP participants are producers. Participants are those individuals or entities who have been approved and are bound to perform under a contract for matching payments, establishment, or annual payments.

This proposed rule uses the term "contract" and "agreement." A contract is between CCC and the participant for BCAP payments. The contract is legally binding and specifies what the producer must do and the resulting payments that CCC will make to the producer. An agreement is with a qualified biomass conversion facility or a project area sponsor. As fully described later in this proposed rule, the agreement specifies what the qualified biomass conversion facility or the project area sponsor plans to do and how it will support the establishment and production of eligible crops for conversion to bioenergy in the BCAP project areas, for example, the type of renewable biomass that will be used, the planned use of renewable biomass, and the new uses for the renewable biomass. In addition, there may be agreements between CCC and a qualified biomass conversion facility for the matching payments, which include items such as obligations of the facility to provide a purchase list, receipts and scale tickets for the eligible material owners and agreement to provide



facility address and contact information to the general public.

#### Matching Payments

As proposed in this rule, matching payments would be available for the delivery of eligible material to qualified biomass conversion facilities to a producer of an eligible crop or a person with the right to collect or harvest eligible material.

The 2008 Farm Bill provides for matching payments at a rate of \$1 for each \$1 per dry ton paid by the qualified biomass conversion facility, in an amount up to \$45 per dry ton, for a period of two years. The 2008 Farm Bill also provides that biomass conversion facilities are those that convert, or propose to convert renewable biomass into heat, power, biobased products, or advanced biofuels.

For the matching payments to eligible material owners delivering to a biomass conversion facility, CCC seeks comments on the following three options.

One option is to provide the matching payments as provided in the Notice of Funds Availability. Under this option, CCC would provide matching payments at the rate of \$1 for each \$1 per dry ton paid by the CHST-qualified biomass conversion facility to the owner for delivery of eligible material to the facility in an amount not to exceed \$45 per dry ton. Under this option, a limit would be placed on those biomass facilities that convert wood wastes or wood residues into heat or power for the facility. In those cases, a historical baseline of heat or power the facility produces from these materials will be established by the Deputy Administrator and payments will be made only for materials delivered to those facilities for conversion to heat or power above that baseline.

A second option is to tailor the matching payments through a "tiered approach" designed to encourage advanced biofuels production. In this option, CCC would provide matching payments at the rate of \$1 for each \$1 per dry ton paid by the CHST-qualified biomass conversion facility; however, biomass conversion facilities converting eligible material to advanced biofuels would be able to receive matching payments at the maximum rate of \$45 per ton. Biomass conversion facilities converting eligible material to any use other than advanced biofuel—such as heat, power, renewable energy or biobased products—would be able to receive payments at some point below the maximum rate. USDA requests comments on how to assess a tiered

approach and how such an approach might be structured.

One possible approach would be based on USDA's tentative finding, in Regulatory Impact Analysis, that a \$9 per green ton subsidy would render biomass feedstock broadly appealing to farm operators and competitive as an input to the energy sector. This \$9 per green ton rate equates to approximately \$15 to \$16 per dry ton. If so, a \$16 per dry ton payment rate would be sufficient to incentivize the production of new biofuel feedstock development and associated production processes that would not otherwise occur absent this financial support.

Another approach would be to develop a payment rate based directly on the value of lowering carbon emissions. Such an approach would take account of the greenhouse gas benefits associated with the substitution of biofuels for other more carbon intensive fuel sources, such as coal. USDA has proposed a particular minimum subsidy of \$16 per dry ton, and it believes that value may "internalize" some of the societal benefit of the use of biofuel feedstock as an energy sector input, leading to significant environmental improvements. USDA specifically requests comment on how to better capture this concept and whether a higher or lower minimum payment may best reflect the greenhouse gas and other environmental benefits of biofuel feedstock energy use.

USDA specifically requests comment on whether this or another similar payment structure might be best, and on how USDA may reflect the economic and environmental goals that can be achieved through this kind of tiered payment structure.

Finally, a third option is to vary the matching payments to encourage additional biomass production beyond a historical baseline. Under this option, CCC would calculate the matching payment at the rate of \$1 for each \$1 per dry ton paid by the CHST-qualified biomass conversion facility and then reduce the actual amount paid based on the difference from the baseline. For example, full payment could be provided for delivery of eligible material to new facilities, certain public buildings, facilities, or property (such as schools, universities, military facilities or Federal and State buildings) that convert from fossil fuel consumption to renewable biomass feedstocks; for eligible material showing exceptional promise for producing innovative advanced biofuels, renewable energy, or biobased products; or for every ton of renewable biomass consumption above

a facility's established baseline.

Payments would be reduced for those facilities that do not increase renewable biomass consumption over a historical baseline.

While CCC has not formally considered all of these options, CCC seeks comments and suggestions on all three of these options for the final rule so as to achieve an expansion and strengthening of the production of advanced biofuels, renewable energy, and biobased products from non-feed renewable biomass.

#### Qualified Biomass Conversion Facility

CCC proposes that in order for a delivery of eligible materials to a biomass conversion facility to be eligible for payment, the receiving biomass conversion facility would first have to become qualified for BCAP. To become qualified, the eligible biomass conversion facility would enter into an agreement with CCC, through the FSA State office in the State where the facility is physically located.

A biomass conversion facility, as specified in the 2008 Farm Bill and in this proposed rule, would be a facility that converts or proposes to convert renewable biomass into heat, power, biobased products, advanced biodiesel, or advanced biofuels such as wood pellets, grass pellets, wood chips, or briquettes. For the purposes of BCAP, advanced biofuels do not include ethanol derived from corn kernel starch, because the 2008 Farm Bill specifically excludes it in the definition.

A biomass conversion facility would not have to be a project sponsor for the establishment and annual payments component of BCAP or be in operation to submit a successful application for qualification. If the facility is not yet in operation, CCC proposes that the person requesting that a facility become qualified must provide proof of all applicable Federal, State, local, and Tribal permits and licenses required for operation or proof of application completions or letters of renewal submissions from the applicable governmental entity. Applicable permits and licenses may include, but are not limited to, business licenses, air quality permits, water discharge permits, storm water permits, or Bureau of Alcohol, Tobacco, Firearms and Explosives registrations.

CCC proposes that each biomass conversion facility enter into a separate agreement with CCC regardless of whether a single owner has multiple facilities. CCC would issue unique facility identification numbers to each qualifying biomass conversion facility.



The proposed agreement between CCC and a qualified facility would require the biomass conversion facility to make information about the facility available to CCC and institutions of higher education. The 2008 Farm Bill requires that the information be made available to the Secretary or to institutions of higher education so that the information can be used to promote the production of biomass crops and the development of biomass conversion technology. The 2008 Farm Bill also requires a report to Congress on best practice data and other information no later than four years after the enactment of the 2008 Farm Bill, so the agreement would require that such information be disclosed, with the understanding that such information would be used in the report to Congress. In addition, when a biomass conversion facility agrees to become "qualified" it will be helpful for CCC to make information available to the public that a particular facility has become qualified because it is a precursor to being eligible for a matching payment.

#### **Eligible Material Owners, Application for Matching Payments**

To be eligible for matching payments, the eligible material owners need to visit a county FSA office to sign up for payment approval as an eligible material owner. The qualified biomass conversion facility would issue a receipt or invoice upon the date of delivery to eligible material owners.

The material owner would be eligible for the payment if the owner had the legal title to the material for collection or harvest, such as the operator or producer conducting farming operations on private land, or any other person designated by the owner of the private land. Consistent with the 2008 Farm Bill, the eligible material owner could be a person(s) with the right to harvest or collect eligible material on certain Federal lands pursuant to a contract or permit with the United States Forest Service or Bureau of Land Management, such as a timber sale contract.

Eligible material owners would take the receipts from the qualified biomass conversion facility and submit them to the county FSA office for matching payments. In accordance with the 2008 Farm Bill, CCC proposes that the measure for the eligible material weight would be a "dry ton," the weight at zero percent moisture content. The facility would be required to have the necessary equipment (such as a moisture meter) to calculate the equivalent dry ton weight of the delivered material.

In addition to weight scaling for roundwood and forest residues that

have not been chipped, CCC proposes in consultation with the U.S. Forest Service to require qualified biomass conversion facilities to use a random sampling methodology and historical statistical data to determine conversion factors for eligible material. Conversion factors would need to be developed quarterly and be based on type of material such as hardwood and softwood.

For wood chips, chipped forest residuals, shavings, sawdust, bark or any other eligible intermediate forestry residuals, CCC in consultation with the U.S. Forest Service proposes the requirement of sampling for individual loads or using rapid electronic meters. Quarterly correction factors would be required and be based on monthly random samples of the eligible materials.

CCC proposes that woody biomass sampling methodologies follow standard probability sampling of materials and proposes that moisture analysis follow standard test methods for wood fuels.

An eligible owner is able to receive matching payments for a period of two years. The two-year period for matching payment eligibility would begin on the date of issue of the first matching payment. This provision differs from what was provided in the NOFA, which indicated that the 2-year time period would begin immediately after initial approval by the FSA county office for the CHST matching payment and would end 24 months later. Having the "start date" coincide with the payment date, rather than the approval date, ensures that participants would not be unnecessarily penalized if, through no fault of their own, for example, adverse weather or other conditions could delay delivery of eligible material to a qualified biomass conversion facility.

Eligible material owners may also be eligible to participate under the "Establishment and Annual Payments" component of BCAP; however, the annual payment that is received by a participant in that component would be reduced when a matching payment was issued. The "Establishment and Annual Payments" component is discussed later in this rule. If an eligible material owner or producer wishes to avoid the reduction in annual payment(s), CCC proposes that the owner or producer do so by declining the matching payment(s).

The NOFA imposed an "arm's length transaction" requirement to be eligible for a matching payment. CCC acknowledges the importance of maintaining flexibility in this new program, as well as ensuring a broad

range of eligible materials in pursuing program goals, and is mindful of the constraints raised by the comments. In order to provide appropriate safeguards to ensure transactions among disinterested parties, CCC proposes to replace the "arm's length transaction" language with related-party transaction language. Related-party transaction restrictions will not render stockholders of a privately or publicly held company who deliver eligible material to that company ineligible; nor will members of a cooperative who deliver eligible material to that cooperative be considered ineligible. CCC proposes that related-party transaction be defined as a transaction between two or more ready, willing, and able organizations, trades, or business (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) substantially owned or controlled, directly or indirectly by the same interests, as determined by the Deputy Administrator.

As otherwise explained throughout this proposed rule, CCC proposes that an eligible material owner needs to meet the following to be eligible for a matching payment:

An eligible material owner may be:

- A producer within a project area;
- A biomass conversion facility;
- A person or entity with the legal title to an intermediate ingredient or feedstock; or

- A person or a non-Federal entity that has legal title to an eligible material, including Indian Tribes and Tribal members.

An eligible material owner may apply for a matching payment at the FSA county office after delivery of eligible material to a qualified biomass conversion facility.

The eligible material must be harvested or collected from certain:

- U.S. National Forest System and BLM lands.
- Non-Federal lands, including State- and locally-held government lands, or
- Tribal land held in trust by the Federal government.

The eligible material must be harvested or collected from certain:

- Materials, pre-commercial thinnings, or invasive species from National Forest System land and U.S. Bureau of Land Management System land that:
  - Are byproducts of preventive treatments that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health;
  - Would not otherwise be used for higher-value products; and
  - Are harvested in accordance with applicable law and land management



plans and the requirements for old-growth maintenance, restoration, and management direction of section 102 (e)(2), (3), and (4) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512) and large-tree retention of subsection (f).

- Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including:

- Renewable plant materials such as feed grains, other agricultural commodities, and other plants and trees; and

- Waste materials including vegetative waste comprised of crop residues such as corn stover or wood wastes and wood residues that would not otherwise be used as inputs for existing value-added production.

CCC also proposes that eligible material owner(s) would not be eligible for a matching payment if:

- Payment is received before the biomass conversion facility is qualified by CCC;
- The eligible material owner did not receive approval for matching payment from the county FSA office before receiving payment;
- The delivery did not consist of eligible material (For deliveries of commingled eligible and ineligible material, only the eligible material will be eligible for payment);
- The eligible material owner knowingly supplied false information;
- The eligible material owner violated the associated conservation or forestry plan related to the land that produced the eligible material for which a matching payment is requested; or
- The formerly qualified biomass conversion facility failed to comply with the agreement it entered into with CCC and, accordingly, the agreement was terminated by CCC prior to delivery.

Comments received on the CHST NOFA encourage CCC to ensure that conservation or forest stewardship plans appropriately address soil, water, wildlife and other natural resource concerns, so that biomass production is balanced with natural resource conservation. For matching payments, CCC intends to apply existing conservation plan requirements as required by Title XII of the Food Security Act of 1985 and is requesting additional comments in this proposed rule to ensure that adequate guidance is received to determine the scope of these requirements. CCC invites further comment on specific, additional conservation and stewardship measures

that could be included or that could be contained within the matching payment options discussed previously.

#### Eligible Materials

For guidance to potential eligible material owners and biomass conversion facilities, CCC proposes to provide a list of eligible materials deemed acceptable to receive a matching payment in accordance with the 2008 Farm Bill's definitions of renewable biomass and eligible material. The list of eligible material would be provided to the public via the FSA Web site at <http://www.fsa.usda.gov/energy>. CCC proposes the list of materials be utilized for guidance with the understanding that the list is not exhaustive and would be amendable and periodically updated by the CCC—in accordance with the parameters established by the 2008 Farm Bill—as biomass energy technology evolves. When there is recommendation for an addition to the list of eligible material, CCC will review the material to make determinations—the review could include a site visit and comparison to related materials or uses. CCC will review the recommendation to ensure that the new material meets the requirements of the 2008 Farm Bill and the regulations. CCC requests comments for additional suggestions on considerations in the process to amend the list of eligible materials. As described later in this rule, a list of eligible crops for the establishment and annual payment provisions would include some additional crops not eligible for matching payments.

Renewable biomass, as specified in the 2008 Farm Bill and in this rule, includes materials, pre-commercial thinnings, or invasive species from U.S. National Forest System land and U.S. Bureau of Land Management (BLM) land that:

- Are byproducts of preventive treatments that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health;
- Would not otherwise be used for higher-value products; and
- Are harvested in accordance with applicable law and land management plans and the requirements for old-growth maintenance, restoration, and management direction of subsections 102(e)(2), (3), and (4) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512) and large-tree retention provisions of subsection (f).

In other words, renewable biomass harvested on National Forest System and BLM land would typically be trees and brush removed for fire prevention

purposes, trees unsuitable for commercial timber harvest, invasive plant removal for treatment and control purposes, and diseased, damaged, or immature trees culled in accordance with appropriate forest management practices. Additionally, CCC seeks comment on additional conservation or stewardship measures that should be considered for inclusion in the final rule for the eligible materials described above.

As specified in the 2008 Farm Bill, renewable biomass also includes any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian Tribe that is held in trust by the United States including:

- Renewable plant materials such as feed grains, other agricultural commodities, other plants and trees, and algae;

- Waste materials including vegetative waste comprised of crop residues such as corn stover, wood wastes, and wood residues;

- Animal waste and byproducts; and
- Food waste and yard waste.

However, that definition of renewable biomass from the 2008 Farm Bill applies to more than one program in Title IX. For BCAP specifically, the 2008 Farm Bill defines "eligible material" more narrowly, so that renewable biomass excludes the whole grain derived from any crop that is eligible to receive payments under Title I of the 2008 Farm Bill.

Those crops that are subject to the provisions of Title I of the 2008 Farm Bill would therefore not be included as eligible materials or crops for either component of BCAP. These crops include the whole grain derived from a crop of barley, corn, grain sorghum, oats, rice, and wheat; oilseeds such as canola, crambe, flaxseed, mustard seed, rapeseed, safflower seed, soybeans, sesame seed, and sunflower seeds; peanuts, pulse crops such as small chickpeas, lentils, and dry peas; dairy products; sugar; wool; and, cotton boll fiber.

In accordance with the 2008 Farm Bill, CCC proposes that crop residue or other similar byproducts of crop production and harvesting, such as corn stover, corn silage, straw, hulls, or sugar bagasse, remain eligible materials for matching payments without further limitation or restriction. CCC proposes that for such eligible material conservation plans should be updated or initiated to address the removal of the material as needed. Additionally, CCC invites comments and suggestions with regard to specific, additional conservation and stewardship measures



that should be considered for the collection, harvest, transportation or storage of these eligible materials.

The 2008 Farm Bill is silent as to whether, for the purposes of BCAP matching payment eligible material requirements, vegetative waste materials, such as wood waste and wood residue, available from non-Federal land should be limited only to those that would not otherwise be used for higher-value products. Based on its experience with the NOFA, CCC proposes in this rule to apply that limitation to vegetative waste materials such as wood wastes and residues so that those materials are excluded if they would otherwise be used for higher-value products. CCC invites comments and suggestions with regard to the addition of this provision.

The 2008 Farm Bill does not specifically exclude invasive or noxious species in the definition of "eligible material." Renewable biomass derived from invasive or noxious species must be handled in accordance with Executive Order (E.O.) 13112 of February 3, 1999. E.O. 13122 requires that Federal agencies "not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions."

CCC consulted with APHIS and the National Invasive Species Council experts to determine the feasible and prudent measures necessary to minimize the risk of harm related to the inclusion of invasive or noxious species for the purposes of BCAP matching payments. Based on the consultation, CCC proposes to include invasive and noxious species as eligible materials for BCAP matching payment purposes; however, such eligible materials must not be collected, harvested, or transported during reproductive or other phases that may propagate the spread or establishment of those species. Eligible material owners should contact State and local weed boards or authorities and their local USDA Service Center staff about collecting, harvesting, or transporting invasive or noxious species to ensure compliance with E.O. 13112, USDA guidelines, and other requirements.

The likely benefits of including invasive and noxious species as eligible materials, which would incentivize their removal, significantly outweighs the potential negative impacts that may result from not including them as eligible materials, specifically scenarios where removing native species from a tract of land would occur and not removing the invasive or noxious species would encourage invasive and noxious species propagation.

CCC requests comment on whether or not eligible material owners violating E.O. 13112 should be financially responsible for any or all removal costs associated with the spread or establishment of invasive or noxious species if it determined that an eligible material owner contributed to the spread or establishment of an invasive or noxious species while carrying out activities related to receiving a matching payment.

As required by the 2008 Farm Bill, the following renewable biomass materials would also be excluded from BCAP matching payments, although they would be eligible crops for BCAP establishment and annual payments:

- Animal waste and byproducts (including fats, oils, greases, and manure);
- Food waste such as food processing scraps and yard waste such as debris removal originating from municipal or commercial yard, lawns, landscaped areas or related sites; and
- Algae.

Additionally, CCC proposes that materials that are wastes or by-products of industrial or similar processes that contain inorganic materials, such as black or pulp liquor that is a by-product of the pulp and kraft paper manufacturing process, remain excluded from the definition eligible materials. While such products may have historically been used to generate heat, power, steam and electricity to operate facilities, these products are not within the parameters set by the 2008 Farm Bill because they are, among other things, not organic materials collected or harvested from land. As such, these materials, as well as otherwise eligible materials delivered and used for the generation or production of these materials, would continue to not be eligible for matching payments under this program.

Consistent with the 2008 Farm Bill, CCC proposes that eligible materials, for a matching payment, would be collected and harvested from eligible lands that would include:

- (1) U.S. National Forest System lands;
- (2) BLM lands;

(3) All Non-Federal lands in the United States; and

(4) Land belonging to an Indian or Indian Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States. In other words, most publicly- and privately-held land is eligible for the BCAP matching payments program, except for some Federal lands.

In accordance with the 2008 Farm Bill, CCC proposes that matching payments would be made for all eligible materials, including those derived outside BCAP project areas. CCC invites comments pertaining to the previously discussed options for structuring matching payments to provide incentives for the collection, harvest, storage and transportation of eligible materials near project areas.

Eligible materials that are considered an advanced biofuel or an intermediate ingredient or feedstock of a biobased product must be derived from an otherwise eligible material.

CCC recognizes that the production of some advanced biofuels and biobased products requires intermediate ingredients and intermediate feedstocks, such as chopped grasses or wood chips. CCC proposes that the source material and the intermediate ingredient or feedstock be considered separate eligible materials; however, only one matching payment will be issued for either the source material or the intermediate ingredient or feedstock, but not both.

#### **Eligibility for Establishment and Annual Payments**

Establishment and annual payments are proposed to be available for persons and legal entities with eligible land that is located within a project area designated by CCC. CCC proposes to accept project area proposals from a project sponsor on a continuous basis. Unlike the matching payments component of BCAP, where any owner of eligible materials can be eligible for the program, for the establishment and annual payments component, only producers in a designated project area will be eligible for payment. The payments will cover not more than 75 percent of costs of eligible practices to establish non-woody and woody perennial biomass crops, and annual payments to support up to 15 years of crop production. By designating project areas, the BCAP program can support the development of renewable biomass production near biomass production facilities.



### Proposing Project Areas

Project areas would be proposed by project sponsors, which could be either groups of producers or biomass conversion facilities.

There is no restriction in this proposed rule on who can own or operate an eligible facility, or sponsor a project area. Various parties could own a biomass conversion facility such as Federal entities, private entities, State or local government agencies, schools, or non-government organizations, provided that these parties have legal title to the facility.

CCC proposes to accept project area proposals on a continuous basis. In accordance with the 2008 Farm Bill, a complete proposal would include, at a minimum:

(1) A description of the eligible land and eligible crops of each producer that will participate in the proposed project area;

(2) A letter of commitment from a biomass conversion facility stating that the facility will use eligible crops intended to be produced in the proposed project area; and

(3) Evidence that the biomass conversion facility has sufficient equity available to operate in the future if the facility is not operational at the time the project area proposal is submitted.

While the 2008 Farm Bill does not require conservation plans or forest stewardship plans to be an acceptable proposal, it does require that all contracts within a project area provide for the implementation of a conservation plan, forest stewardship plan or equivalent plan. As such, project area proposals will also include a description of the general conservation and forest stewardship measures that will be implemented in plans under contracts within the area. CCC seeks specific comment as to further conservation or stewardship requirements that should be included in a proposal for a project area.

For item 1 above, the project sponsor would submit a narrative of the proposed project and submit maps of the project area delineating the location of the current or proposed biomass conversion facility. The maps would show: (1) Current land use, (2) roads, (3) railroad, (4) rivers and barge access, (5) proposed land use change, and (6) resource inventory maps including soils and vegetation.

For item 3 above, evidence of sufficient equity will document the projected construction, start-up, operation, and maintenance costs over the projected life-span of the project. The project sponsors would document

the estimated cash-flow of the project during its life-span (including assumptions on the production outputs and expected market prices for the products produced). In addition, the project sponsor would document its existing resources and short term and long term financing. The information provided to CCC will be confidential and CCC will use it to determine if sufficient equity is available for the facility and the project.

The project sponsor will also submit the economic impacts of the proposed project area. At a minimum the proposal will address the anticipated timing and number for job creation and retention and likelihood of attracting additional private sector investment.

At a minimum, projects must demonstrate the ability to support the development and production of heat, power, biobased product, or advanced biofuels from renewable biomass production. The facility must demonstrate long-term economic viability and ability to comply with all environmental and regulatory requirements for the production of heat, power, biobased product, or advanced biofuels from renewable biomass. In addition, the project must demonstrate that sufficient quantity of eligible crops will be grown within an economically viable distance from the facility and that the crops can be grown in an environmentally acceptable manner as determined by CCC.

CCC requests comments on other types of information that should be required from project sponsors, including, but not limited, to a draft proposal. Proposed project area information that a sponsor considers appropriate or sufficient, may be included in a comment to this rule. We will review the information and use the analysis to make any required changes in the final rule. Information submitted as a proposal for a project area cannot be approved until implementation of the final rule. As with any comment, proposed project area information will become part of the public record and the public will be able to review it and comment on it. Because BCAP is a new program, information based on specific examples, projects, and situations will help improve the implementation and effectiveness of the program.

CCC proposes that a project area have specific geographic boundaries and be described in definite terms such as acres, watershed boundaries, mapped longitude and latitude coordinates, or counties. The project area would be physically located near a biomass conversion facility or facilities. Whether a project area is within an economically

viable distance from a biomass conversion facility will depend upon the eligible crops being established and produced, as well as other transportation and logistics matters, and thus must necessarily be determined on a case-by-case basis. The biomass conversion facility can be within the geographic boundary of the project area, or near it. The project area must also include potential or established producers that would supply either a portion or all of the renewable biomass needed by the biomass conversion facility.

### Project Area Selection Criteria

Consistent with the 2008 Farm Bill, CCC proposes to evaluate project area proposals that are submitted, according to these criteria:

(1) The volume 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;

(2) The volume of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;

(3) The anticipated economic impact in the proposed project area, such as the number of jobs created and retained;

(4) The opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed project area;

(5) The participation rate by beginning or socially disadvantaged farmers or ranchers;

(6) The impact on soil, water, and related resources, such as effect on nutrient loads, or soil erosion;

(7) The variety in biomass production approaches within a project area, including agronomic conditions, harvest and postharvest practices; and monoculture and polyculture crop mixes; and

(8) The range of eligible crops among project areas.

CCC proposes that all project proposals meeting these criteria would be considered acceptable for BCAP. The 2008 Farm Bill provides discretion for the Secretary to consider other information in evaluating project proposals. Given this discretion, CCC proposes that, in addition to the above criteria, proposals will also be evaluated based upon their ability to promote the cultivation of perennial bioenergy crops and annual bioenergy crops that show exceptional promise for producing highly energy-efficient renewable energy, advanced biofuels or biobased products, that preserve natural resources, and that are not primarily grown for food or animal feed. CCC



requests comments on whether additional criteria should be included for evaluating the capacity of the land in a project area to sustainably produce the proposed quantity of biomass. CCC requests comments on what other criteria or information we should use to evaluate project proposals.

Project sponsors that are biomass conversion facilities could be any size of operation including pilot facilities, research units, experimental or demonstration operations, or commercial operations. As proposed in this rule, a biomass conversion facility not yet in operation could be a project sponsor. In that case, the biomass conversion facility would have to provide evidence that it has sufficient equity available.

#### Project Area Eligible Crops

As proposed in this rule, after CCC approves a project area, persons and legal entities within the specific geographic boundaries of that area could be eligible for payment for the establishment and production of eligible crops. To be eligible for payment, participants would need to enroll the land under BCAP contracts.

The 2008 Farm Bill defines an eligible crop as a crop of renewable biomass. The 2008 Farm Bill also includes a list of certain types of renewable biomass that are ineligible. Animal wastes, food and yard wastes, and algae are included in the definition of eligible crop in the 2008 Farm Bill and are therefore included in the definition in this proposed rule.

CCC proposes that biomass conversion facilities may suggest the exact species and varieties of eligible crops allowable in a BCAP project area, provided that the crops are included in the BCAP definition of eligible crop. Project area proposals may limit the nature and types of eligible crops to be planted within a project area.

The 2008 Farm Bill specifically excludes Title 1 crops and noxious or invasive plants as eligible crops. FSA State Committees will consult with the State Technical Committees for recommendations concerning the invasive and noxious status for otherwise eligible crops for the purposes of BCAP.

As specified in the 2008 Farm Bill, Federal or State-owned lands are not considered to be eligible lands for establishment and annual payments; therefore, CCC proposes to exclude all Federal and State-owned land from the establishment and annual payments component of BCAP.

#### Project Area Eligible Producers

CCC proposes that within the project area, producers would enter into BCAP contracts and be eligible to receive establishment payments, as a form of cost-share, to convert agricultural lands or nonindustrial private forest lands to the production of eligible crops. In addition, producers could also be eligible for annual payments for the production of eligible crops used for conversion to renewable energy, advanced biofuels or biobased products. The details for what is required to qualify for the annual payments would be specified in the individual contract between CCC and a producer, as discussed further below, and would include provisions for the implementation of a conservation plan, forest stewardship plan, or equivalent plan, where required. The producer will demonstrate compliance with the conservation or forest stewardship plan through required self certification and FSA will ensure that normal spot check rules and methods are followed to ensure compliance with the plans. Producers that already have established BCAP eligible crops when this program starts may enter into a contract for annual payments to continue growing those crops; however, establishment payments would not be authorized.

CCC also proposes that project sponsors, regardless of whether they are a biomass conversion facility or a group of producers, could also be considered as a producer and be eligible to receive establishment and annual payments. However, the sponsor would have to own or operate eligible land to be eligible to enroll as a producer under a BCAP contract and be eligible to receive establishment and annual payments. State-owned biomass conversion facilities would not be eligible to be considered a producer for a BCAP contract because the 2008 Farm Bill specifies that State-owned land is ineligible for establishment and annual payments.

The agreement between the project sponsor and CCC is not a contract. A successful project sponsor is not paid by CCC for being a sponsor; the producers in the project area, who may also be the sponsor, are eligible for payment for the establishment and production of eligible crops. Therefore, biomass conversion facilities that act as project sponsors would not be subject to general Federal contracting requirements as a condition of a project area approval.

#### Project Area Contract Acreage and Terms

CCC proposes that a producer within the project area would enter into a contract with CCC to commit acres, which would then be called contract acreage, to establish or produce eligible crops.

In accordance with the 2008 Farm Bill, CCC proposes that contract terms include:

(1) Compliance with highly erodible and wetland conservation requirements contained in the 2008 Farm Bill and in 7 CFR part 12;

(2) The implementation of conservation plan as defined in 7 CFR 1410.2, a forest stewardship plan as defined in 16 U.S.C. 2103(a), or an equivalent plan as determined by the Deputy Administrator;

(3) A commitment to provide information to promote the production of eligible crops and the development of biomass conversion technology; and

(4) Other information deemed appropriate by CCC, such as the preservation of cropland bases and yield history.

CCC invites comments on additional conservation or stewardship measures that could be included in a contract to provide incentives or otherwise encourage conservation, stewardship wildlife habitat or sustainability practices above the statutory requirements.

Contract durations may be up to 5 years for annual and non-woody perennial crops, and up to 15 years for woody perennial crops. CCC proposes flexibility to adjust the terms of the contract length on a per project basis in order to ensure the most efficient use of government funding. The establishment time period may vary due to: type of crop, agronomic conditions (establishment time frame, winter hardiness, etc), and other factors. CCC would establish the time frame based on the recommendations received from the State Technical Committee.

CCC proposes that the contracts would take into account an establishment period appropriate for an existing crop's harvest or for the planting of a planned crop. BCAP contracts and conservation plans would be designed in an effort to promote the production of a long-term source of biomass feedstock that can be harvested and collected in a reasonable period of time. The expectation, which will be reflected in the contract, is that eligible crops funded under BCAP will produce at least one harvest for biomass within the period of the contract.

Contracts would be subject to modification and payment reductions if



any of the contract terms are violated. Participants that choose to voluntarily withdraw from BCAP before the duration of their contract has ended would be subject to early contract termination penalties and payment refunds.

In exchange for signing BCAP contracts, CCC will share not more than 75 percent of the cost with participants of establishing non-woody and woody perennial crops, pay an annual payment for enrolled land, and provide for the preservation of cropland base and yield history applicable to the land enrolled in the BCAP contract.

#### Eligible and Ineligible Land

The contract acreage would consist of only the eligible lands that are covered under the producer's contract with the CCC. The 2008 Farm Bill defines eligible land for project areas as agricultural land and nonindustrial private forest land, subject to certain exclusions.

CCC proposes, in accordance with exclusions in the 2008 Farm Bill, that land considered ineligible to be enrolled under a BCAP contract includes:

- (1) Federal lands;
- (2) State-owned, municipal, or other locally-owned lands;
- (3) Native sod; and
- (4) Land that is already enrolled in CCC's Conservation Reserve Program, Wetlands Reserve Program, or Grassland Reserve Program.

CCC proposes that eligible agricultural land includes:

- (1) Cropland;
- (2) Grassland;
- (3) Pastureland;
- (4) Rangeland;
- (5) Hayland; and
- (6) Other lands on which food, fiber, or other agricultural products are produced or capable of being produced for which a valid conservation plan exists or is implemented.

CCC proposes that agricultural lands with already established energy crops or already contracted for energy crops or planned energy crops would be eligible lands for contract acreage. In other words, as noted earlier, producers who started growing renewable biomass before BCAP was implemented may enter into a contract with CCC for annual payments. We do not intend to exclude "early adopters" of biomass crops.

Nonindustrial private forest land is defined in this rule, in accordance with the 2008 Farm Bill, as rural land with existing tree cover, or suitable for growing trees, owned by any private individual, group, association, corporation, Indian Tribe, or other

private legal entity. CCC proposes that this definition allows for the inclusion of properties such as a privately held tree farm or a private forest landowners' cooperative. This is consistent with the definitions of "landowner" and "nonindustrial private forest land" in 36 CFR 230.2 (the relevant Forest Service regulation), which includes private legal entities as landowners of such forest land but excludes corporations whose stocks are publicly traded or legal entities principally engaged in the production of wood products. CCC proposes that existing nonindustrial private forest land with existing tree cover can enter into contract acreage with an approved biomass conversion facility and be eligible for annual payments, subject to a forest stewardship plan. Establishment payments will only be made for woody perennial crops with a projected initial harvest time occurring within the length of the contract period.

As discussed earlier, contract acreage will be subject to minimum contract terms which include, but are not limited to, the implementation of a required conservation plan or forest stewardship plan (or the equivalent); and compliance with highly erodible and wetland conservation requirements of 7 CFR part 12. While land enrolled in other USDA programs could be eligible lands for contract acreage, the contracting producer could not receive multiple program benefits for purposes that are the same or substantially similar to the purposes of BCAP. A contracting producer must choose whether to receive BCAP payments or other USDA or Federal program benefits where those benefits are designed to achieve the same purposes as BCAP.

Land use restrictions would not apply to contract acreage provided that CCC determines that the land uses would be consistent with the conservation plans or forest stewardship plans (or the equivalent) and any other BCAP conservation requirements. CCC requests comments on other applicable contract terms concerning conservation requirements along with a justification for the contract term. For example, contracts may also contain biomass delivery or sale expectations or requirements to ensure the crops are not sold off into hay markets, or other non-BCAP uses.

#### Making Establishment Payments

Consistent with the 2008 Farm Bill, establishment payments of not more than 75 percent of the cost for establishing a perennial crop, which could include woody biomass, would include:

(1) The costs of seed and stock for perennials;

(2) The cost of planting the perennial crop;

(3) For non-industrial forest land, the costs of site preparation and tree planting;

(4) Other proposed establishment activities that could include, but would not be limited to, site preparation for non-tree planting and supplemental or temporary irrigation.

In addition, partial payments could be authorized when identifiable components of the contract are completed; and supplemental establishment payments may be authorized if necessary.

Consistent with the 2008 Farm Bill, CCC proposes that establishment payments would not be authorized for annual crops. In addition, prior to receiving establishment payments, producers must have planted their crops and must provide their FSA county office with copies of receipts and invoices related to the cost of establishing their crops.

#### Making Annual Payments

CCC proposes to calculate annual payments on a per acre basis and would use market-based rental rates, as determined by CCC. The payments are intended to support production of eligible crops. Annual payment rates will be established at levels required to ensure sufficient participation in a project area.

As specified in the regulations in 7 CFR 1410.42 and as determined by CCC, annual payments will include a payment based on:

(1) A weighted average soil rental rate for cropland;

(2) The applicable marginal pastureland rental rate for all other land except for non-industrial private forest land; and

(3) For forest land, the average county rental rate for cropland as adjusted for forestland productivity for non-industrial private forest land.

This rate information is being posted at FSA county offices (as FSA posts information for CRP). There are site-specific factors including type of soil and land use. There is too much information to post it all on the Web. FSA can provide general information about rates.

CCC will post in FSA county offices the county specific base-line rental rates for cropland, marginal pastureland and forestland. In addition, the applicable additional incentive rates (premiums) will be posted for specific project area or specific crop mixes within the project area.

In determining the applicability of incentive payments (premiums) to the annual base-line soil rental rates the Deputy Administrator will consider the costs of establishing the crop, and the potential to establish perennial biomass crops that show exceptional promise to produce highly energy efficient bioenergy or biofuels, that preserve natural resources and are not primarily grown for food or animal feed or that also address specific resource conservation needs.

Annual payments would be reduced if:

- (1) An eligible crop is used for purposes other than the production of energy, then a dollar-for-dollar reduction would apply, not to exceed the total payment amount;
- (2) An eligible crop is delivered to the biomass conversion facility that is not within the project area;
- (3) The producer receives a matching payment;
- (4) The producer violates a term of the contract; or
- (5) Other circumstances as determined by CCC.

We must reduce payments to avoid duplicate benefits, but as described below, the annual payment reduction for delivery to a biomass facility or for matching payments will likely be less than a full, dollar-for-dollar reduction, because the purpose of BCAP is to encourage biomass energy production.

The 2008 Farm Bill authorizes agricultural land and non-industrial

private forest land for annual payments. Agricultural land consists of cropland, pastureland, rangeland, and grassland. CCC proposes to calculate market-based rental rates for cropland, consistent with the CRP regulations in 7 CFR part 1410; and for all other agricultural land at the rate that would be paid for pastureland, consistent with CRP.

CCC proposes to calculate the market-based payment rate for non-industrial forest land using the average county rental rate for cropland developed for CRP and adjusting that rate by comparing the average productivity of cropland compared to the average productivity of forestland.

If the crop is delivered to a biomass conversion facility, payment reductions would be applied in an amount equal to at least 25 percent of the authorized annual payment, but not a full dollar-for-dollar reduction, for each contract acre. If the harvested production is sold for any other reason, a dollar-for-dollar reduction would apply, not to exceed the total annual payment.

CCC proposes that half of the first year's annual payment would be made within 30 days of the date of contract approval and the balance paid on the annual contract enrollment anniversary. Subsequent annual payments would be made every year within 30 days after the contract anniversary date. Under the proposed rule, payments may cease and producers may be subject to contract termination for failure to plant eligible crops.

To be considered a biomass conversion facility, one of the criteria that may be met is whether the facility converts or proposes to convert a biobased product. The 2008 Farm Bill defined biobased products as a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—“(A) composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or (B) an intermediate ingredient or feedstock.” The NOFA excluded commercially-produced timber, lumber, wood pulp, or other finished wood products that otherwise could be used for higher-value products. CCC proposes to continue the exclusion of commercially-produced timber, lumber, wood or other finished products that otherwise would be used for higher value products. Additionally, CCC proposes to clarify that industrial or other process wastes or by-products, such as black liquor or pulp liquor that is a waste by-product of the pulp and kraft paper manufacturing process, are not included within the definition of biobased products because they are not significantly composed of organic or biological products collected or harvested from land.

#### Key Provisions Comparison

This table compares key provisions of matching payments versus establishment and annual payments:

	Matching payments	Establishment and annual payments
Geographic Eligibility .....	Not limited geographically .....	Limited to designated project area.
Project Sponsor .....	Not applicable .....	A project sponsor proposes project areas and may be a: <ul style="list-style-type: none"> <li>• Biomass conversion facility, including facilities owned by Federal entities, State entities, local government entities, or privately or publicly held entities; or</li> <li>• Group of producers.</li> </ul>
Eligible Material Owner or Eligible Producer.	An eligible material owner may be: <ul style="list-style-type: none"> <li>• A producer within a project area;</li> <li>• A biomass conversion facility;</li> <li>• A person or entity with the legal title to an intermediate ingredient or feedstock; or</li> <li>• A person or a non-Federal entity that has legal title to an eligible material, including Indian Tribes and Tribal members</li> </ul> An Eligible Material Owner cannot be a Federal government entity.	An eligible producer may be a: <ul style="list-style-type: none"> <li>• Biomass conversion facility that owns or operates eligible land or</li> <li>• Person or entity with the legal title to privately held lands or land held in trust by the Federal government.</li> </ul> An eligible producer cannot be a: <ul style="list-style-type: none"> <li>• Federal government entity, or</li> <li>• State or local government entity.</li> </ul>



	Matching payments	Establishment and annual payments
Land Limitations or Eligible Land:	<p>Eligible material must be harvested or collected from certain:</p> <ul style="list-style-type: none"> <li>• U.S. National Forest System and BLM lands;</li> <li>• Non-Federal lands, including State- and locally-held government lands; or</li> <li>• Tribal land held in trust by the Federal government</li> </ul>	<p>Eligible land is certain:</p> <ul style="list-style-type: none"> <li>• Agricultural land, such as cropland, pastureland, rangeland, grassland, or other lands on which food, fiber, or other agricultural products are produced or capable of being produced; or</li> <li>• Nonindustrial private forest lands that are: <ul style="list-style-type: none"> <li>□ Rural lands with existing tree cover, or are suitable for growing trees; and</li> <li>□ Owned by any private individual, group, or association.</li> </ul> </li> </ul> <p>Eligible land cannot be:</p> <ul style="list-style-type: none"> <li>• Federal- or State-owned land;</li> <li>• Land that is native sod; or</li> <li>• Land enrolled in the: <ul style="list-style-type: none"> <li>□ CRP;</li> <li>□ Wetlands Reserve Program; or</li> <li>□ Grassland Reserve Program.</li> </ul> </li> </ul>
Eligible Crop or Material	<p>Eligible material is certain:</p> <ul style="list-style-type: none"> <li>• Materials, pre-commercial thinnings, or invasive species from National Forest System land and U.S. Bureau System land that: <ul style="list-style-type: none"> <li>□ Are byproducts of preventive treatments that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health;</li> <li>□ Would not otherwise be used for higher-value products; and</li> <li>□ Are harvested in accordance with applicable law and land management plans and the requirements for old-growth maintenance, restoration, and management direction of section 102 (e)(2), (3), and (4) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512) and large-tree retention of subsection (f)</li> </ul> </li> <li>• Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including: <ul style="list-style-type: none"> <li>□ Renewable plant materials such as feed grains, other agricultural commodities, and other plants and trees; and</li> <li>□ Waste materials including vegetative waste comprised of crop residues such as corn stover or wood wastes and wood residues that would not otherwise be used for higher-value products</li> </ul> </li> </ul> <p>Eligible material does not include:</p> <ul style="list-style-type: none"> <li>• Whole grain derived from any crop that is eligible to receive payments under Title I of the 2008 Farm Bill.</li> <li>• Animal waste and byproducts (including fats, oils, greases, and manure);</li> <li>• Food waste and yard waste;</li> <li>• Algae.</li> </ul>	<p>Eligible crop is:</p> <ul style="list-style-type: none"> <li>• Renewable plant materials such as feed grains, other agricultural commodities, other plants and trees, and algae;</li> <li>• Waste materials including vegetative waste comprised of crop residues such as corn stover, wood wastes, and wood residues;</li> <li>• Animal waste and byproducts,</li> <li>• Food Waste; and</li> <li>• Yard waste.</li> </ul> <p>Ineligible crops include:</p> <ul style="list-style-type: none"> <li>• Any crops that is eligible to receive payments under Title I of the 2008 Farm Bill.</li> <li>• Any plant that is invasive or noxious or has the potential to become invasive or noxious.</li> </ul>
Authorized Payments	<p>A matching Payment at a rate of \$1 for each \$1 per dry ton equivalent paid by the qualified biomass conversion facility:</p> <ul style="list-style-type: none"> <li>• In an amount up to \$45 per dry ton but only for on-site heat or power production from wood wastes and residues above an historical baseline;</li> <li>• In an amount up to \$45 per dry ton for materials used to produce advanced biofuels and in an amount up to \$16 per dry ton for material used for renewable energy or biobased products; or</li> <li>• In an amount to be reduced in relation to increases in biofuel, renewable energy or biobased product production above a historical baseline</li> </ul>	<p>Establishment payments at a rate of not more than 75 percent of establishment costs based on:</p> <ul style="list-style-type: none"> <li>• The costs of seed and stock for perennials;</li> <li>• The cost of planting the perennial crop; and</li> <li>• For non-industrial forest land, the costs of site preparation and tree planting(s).</li> </ul> <p>Annual payments equal to the market rate plus any incentive as provided for in a specific project area.</p>

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	Matching payments	Establishment and annual payments
Payment Reductions .....	There are no comparable payment reductions ..... If eligible and ineligible materials are comingled in the load, payment will only be made for eligible materials	Annual payments will be reduced if: <ul style="list-style-type: none"> <li>• An eligible crop is used for a purpose other than the production of energy at the biomass conversion facility;</li> <li>• An eligible crop is delivered to the biomass conversion facility outside of the project area;</li> <li>• The producer receives a payment for collection, harvest, storage, or transportation; or</li> <li>• The producer violates a term of the contract.</li> </ul> Under the proposed rule, payments may cease and producers may be subject to contract terminations for failure to establish eligible crops.
Payment Timing .....	Matching payments are paid within 30 days after submission of sales invoice(s) from the qualified biomass conversion facility and completion of application for payment.	Establishment payments are paid when the perennial or tree crop practice or identifiable portion of the practice has been completed according to the BCAP conservation or forestry plan. Annual payments are paid: <ul style="list-style-type: none"> <li>• As an advance payment in an amount equal to 50 percent within 30 days of contract approval with the remaining 50 percent within 30 days of the first-year contract anniversary date, and</li> <li>• Within 30 days of the contract anniversary beginning with the second-year contract anniversary.</li> </ul>
Duration .....	Payment duration is two years from the date on which the first matching payment is issued to an eligible person or entity.	Contract duration is up to: <ul style="list-style-type: none"> <li>• Five years for annual and non-woody perennial crops, and</li> <li>• 15 years for woody perennial crops.</li> </ul>
Project Area Proposals or Matching Payment Applications	An eligible material owner must apply for a matching payment at the FSA county office after delivery of eligible material to a qualified biomass conversion facility.	Project area proposals may be submitted under a continuous signup. After a project area has been approved, eligible persons and legal entities within that project area may enroll in a BCAP contract on a continuous basis at the FSA county office.

**Discussion of Transition From BCAP NOFA to BCAP Final Rule**

Under the NOFA, FSA is making CHST matching payments for eligible material delivered to qualified biomass conversion facilities.

When the final rule is published, conforming changes will be made to the matching payment component based on the proposed rule, public comments received, and input from the Programmatic Environmental Impact Statement and other sources. FSA will also implement the establishment and annual payments component by receiving project area proposals and entering into BCAP contracts with producers for the production of appropriate renewable biomass.

**Final Determination**

The Notice of Funds Notice of Funds Availability (NOFA) for the Collection, Harvest, Storage, and Transportation of Eligible Material published on June 11, 2009 (74 FR 27767–27772), is hereby terminated and rescinded, effective February 8, 2010. No additional payments will be made pursuant to the NOFA except as specifically approved

by the Executive Vice President, Commodity Credit Corporation.

**Notice and Comment**

The Administrative Procedures Act (5 U.S.C. 553) provides generally that before rules are issued by Government agencies, a proposed rule must be published in the **Federal Register**, and interested persons must be given an opportunity to participate in the rulemaking through submission of data, views, or arguments. The law exempts from this requirement rules, such as this one, relating to public property, loans, grants, benefits, and contracts. However, the Secretary of Agriculture published in the **Federal Register** on July 24, 1971 (36 FR 13804), a Statement of Policy that USDA would publish a notice of proposed rulemaking for such rules. USDA is committed to providing the public reasonable opportunity to participate in rulemaking. Therefore, this rule has a 60-day comment period.

**Executive Order 12866**

This rule has been determined to be economically significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. The Cost Benefit Analysis

is summarized below and is available from the contact information listed above.

**Cost Benefit Analysis Summary**

BCAP is intended to assist agricultural and forest land owners and operators with the collection, harvest, storage, and transportation (CHST) of eligible material for use in a biomass conversion facility and to support the establishment and production of eligible crops including woody biomass for conversion to bioenergy in selected project areas.

Establishment and Annual Payments are provided for eligible crops on eligible land within project areas that satisfy selection criteria. The strongest project proposals will be those associated with biomass conversion facilities already in operation or that are economically viable before the creation of BCAP. While early projects are not dependent solely on BCAP support, certainly BCAP may hasten early projects.

Matching payments will tend to go to eligible material owners experienced in the collection, harvest, storage and delivery of biomass feedstock. While matching payments are provided for



eligible materials delivered to qualifying biomass conversion facilities, opportunities to stimulate additional demand in this Farm Bill cycle, either in terms of increasing the construction of qualifying biomass conversion facilities or increasing the planting of biomass feedstock that qualifying biomass conversion facilities demand.

Qualifying biomass conversion facilities are expected to be those in operation by 2012 because it would be difficult for a biomass conversion facility to get on line by 2012 that is not already in the pipeline. Given the substantial capital costs associated with energy generation and fuel production, qualifying biomass conversion facilities in operation by

2012 are assumed to operate at capacity with or without BCAP.

Annual costs for the two parts of the program are presented in the following table. Establishment and annual payments total \$536 million, including technical assistance (TA),<sup>1</sup> and matching payments amount to \$2.1 billion.

TABLE 1—BCAP COSTS BY YEAR  
[2009 \$ millions]

Year	Establishment cost share	Annual payments	Technical assistance	Matching payments	Annual total
2010	78	4	3	392	435
2011	107	11	4	783	822
2012	121	17	5	783	844
2013		17		392	367
2014		17			
2015		16			
2016		16			
2017		15			
2018		14			
2019		13			
2020		13			
2021		12			
2022		13			
2023		13			
2024		13			
2025		9			
2026		5			
Subtotals	306	219	11		
			536	2,100	
Total				2,636	

**Note:** Due to rounding, the subtotals may not exactly match calculated estimates shown later in the CBA.

As explained in the analysis, the majority of BCAP matching payments are expected to go to those eligible material owners who are delivering material predominantly to existing biomass conversion facilities that use woody biomass.

#### Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601, CCC has determined that there will not be a significant economic impact on a substantial number of small entities. Entities affected by this rule are producers of eligible crops, eligible biomass material owners, and biomass conversion facilities. The small business size standards for them are no more than:

- \$750,000 per year gross revenue for crop production (producers of eligible crops);

- \$7 million per year gross revenue for post harvest crop activities (eligible material owners); and

- 4 million megawatt hours per year for other electric power generation (biomass conversion facilities).

Given these size standards, it is reasonable to assume that many of businesses involved in BCAP will be small businesses.

We expect that approximately 7,500 producers of eligible crops and 50 biomass conversion facilities may receive establishment and annual payments and approximately 9,936 eligible material owners (that are not affiliated with a biomass conversion facility) and 701 biomass conversion facilities may be affected (which includes the 50, above) may receive matching payments.

However, in light of the ability of biomass conversion facilities to determine prices and receive program payments, producers of eligible crops and eligible biomass material owners are not expected to be significantly

impacted. And given the scale of BCF output, as well as the limited duration of the BCAP, biomass conversion facilities are also not expected to be significantly impacted by the program.

#### Environmental Review

Under the National Environmental Policy Act (NEPA), the Environmental Impact Statement (EIS) process provides a means for the public to provide input on program implementation, alternatives, and environmental concerns. CCC provided an amended notice of intent to prepare a programmatic EIS on BCAP in the *Federal Register* on May 13, 2009 (74 FR 22510–22511) and solicited public comment on the proposed alternatives to be examined in the programmatic EIS for BCAP. Six public scoping meetings were held in May and June 2009 to solicit comments for the development of alternatives and identify possible environmental concerns.

On August 10, 2009, a Notice of Availability was published in the

<sup>1</sup> All NPV calculations assume a 3% discount rate.

**Federal Register** (74 FR 39915) announcing the availability of a Draft Programmatic EIS (PEIS) for the administration and implementation of the BCAP. Comments on the Draft Programmatic EIS may be submitted until September 24, 2009.

The Draft PEIS has taken into consideration comments gathered during the scoping meetings to develop the alternatives proposed for the administration and implementation of BCAP. The Draft PEIS assesses the potential environmental impacts associated with the following three alternatives:

(1) *No Action Alternative*—Addresses the potential effects from not implementing BCAP. (This is considered the environmental baseline by which to compare the other alternatives against and is required by law.)

(2) *Action Alternative 1*—Addresses a targeted implementation of BCAP to specific areas or regions of the United States.

(3) *Action Alternative 2*—Addresses a broad national implementation of BCAP.

#### **Executive Order 12372**

This program is not subject to Executive Order 12372, which requires consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published in the **Federal Register** on June 24, 1983 (48 FR 29115).

#### **Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not retroactive and it does not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. Before any judicial action may be brought regarding the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

#### **Executive Order 13132**

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### **Executive Order 13175**

The policies contained in this rule do not impose substantial unreimbursed direct compliance costs on Indian Tribal governments or have Tribal implications that preempt Tribal law.

#### **Unfunded Mandates**

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA) (Pub. L. 104-4) establishes requirements for Federal agencies to assess the effects of their regulatory actions that impose "Federal Mandates" that may result in expenditures to State, local, or Tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. This rule contains no Federal mandates as defined by Title II of UMRA for State, local, or Tribal governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### **Federal Assistance Programs**

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this proposed rule would apply is 10.087—Biomass Crop Assistance Program.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995, FSA is requesting comments from all interested individuals and organizations on a revision of new information collection activities associated with BCAP. FSA also included additional burden for the Emergency Conservation Program (ECP) in this proposed rule as described further below.

The approved burden hours will be eventually incorporated into the existing approval under OMB control number 0560-0082, which includes much of the same information for other conservation programs.

BCAP continues to provide financial assistance for collection, harvest, storage, and transportation of eligible material nationwide. BCAP also provides financial assistance establishment payments for perennial crops and annual production payments for perennial and annual crops in approved BCAP project areas. Support for both eligible material and eligible crops are intended to establish a long term feedstock for use in a biomass conversion facility in accordance with the 2008 Farm Bill.

Copies of all forms, regulations, and instructions referenced in this rule may be obtained from FSA. Data furnished by the applicants will be used to determine eligibility for program

benefits. Furnishing the data is voluntary; however, the failure to provide data could result in program benefits being withheld or denied.

Additionally, the information collection request for the matching payment funds available for the collection, harvest, storage, and transportation of eligible material was approved under the OMB control number 0560-0263 under the emergency procedure in accordance with the Paperwork Reduction Act of 1995. That information collection was incorporated into the existing OMB control number 0560-0082. The 60-day comment period was also published in the **NOFA Federal Register** on June 11, 2009 (74 FR 27767-27772) to solicit public comments. The comment period ended on August 10, 2009. One comment was received on requesting to extend comment period on the information collection to implement BCAP. This proposed rule provides a 60-day comment period.

*Title:* BCAP.  
*OMB Control Number:* 0560-NEW.  
*Type of Request:* New.  
*Abstract:* This information collection is needed to comply with section 9011 (b)(2) of Title IX of the Farm Security and Rural Investment Act of 2002 (U.S.C. 8101-8113), which was added by the 2008 Farm Bill.

For the administration of matching payments to be continued and expanded to more respondents in this information collection, FSA employees will enter the application information from completed paper forms into a Web based system that collects information categories similar to the electronic AD-245 application for cost-share form, which is currently approved under OMB control number 0560-0082 for other conservation programs. The Web based matching payment form, BCAP-5 form, will collect information about the owners of eligible material and estimated and actual biomass material sold and delivered to a qualified biomass conversion facility in order to approve applications for BCAP matching payments and to calculate matching payments after sale and delivery. BCAP will also have eligible material owners complete the CCC-901 form concerning members' information or ownership. This form will enable the adherence to the arm's length transaction requirement and the two year limit for eligibility to receive matching payments. BCAP will also use the existing AD-1047 certification regarding debarment, suspension, and other responsibility matters (primary covered transactions form). The AD-1047 form will help ensure that only



those owners and managers of qualified biomass conversion facilities and those owners of eligible material who have not been disbarred, suspended, or otherwise made ineligible for Federal transactions are qualified or determined eligible for BCAP. The AD-1047 form will require the owners to certify that they are in compliance and not subject to disbarment or suspension. The information collection activities for matching payments will include the following:

(1) Applicants will request to become a qualified biomass conversion facility or

(2) Applicants will register as an eligible material owner and then, after delivery of eligible material, request matching payments for the collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

Specific descriptions of the information requirements were discussed in the NOFA under the application sections. Matching payments applicants submit estimates to register as eligible material owners and actual delivery information to request matching payments and biomass conversion facilities enter into an agreement giving a conversion facility overview. If the Deputy Administrator determines that additional information is necessary from an eligible material owner or a biomass conversion facility, it will be related information required to determine eligibility, ensure the ability to make proper payments, or to otherwise legally provide benefits to an eligible material owner, such as the FSA-211 form which provides power of attorney assignment.

For the administration of project areas, FSA employees will enter proposal information from project sponsors into an electronic format. The BCAP-4 form will be used to provide a summary of the project area proposal. The BCAP-4 form will provide project sponsors the ability to provide information overview for a variety of application factors which include: Documentation of sufficient equity for start-up biomass conversion facilities committed to the project area, land description in GIS shape file coordinates, transportation modes, distance of the biomass conversion facility in relation to eligible lands, job development and retention factors, and biomass conversion facility's production potentials or history. The information collection will be used to review project area criteria outlined by the 2008 Farm Bill. Categories expected on the proposals, consistent with the 2008 Farm Bill will include, but not be

limited to, volume of eligible crops, volume of renewable biomass, job creation projections, number of producers, number of biomass conversion facilities, projected participation rates for beginning and socially disadvantaged farmers or ranchers, projected environmental impacts, agronomic conditions, and range of crops. A BCAP worksheet will be required for environmental screening, similar to the existing FSA-850 form. This information will help facilitate the selection of BCAP project areas and allow producers in those BCAP project areas the opportunity to apply for establishment and annual production payments.

For the administration of BCAP project area establishment and annual production payments, FSA employees will first enter producer information into a Web based BCAP-2 producer worksheet and then, if eligible, may enter into a contract for annual production payments using the BCAP-3 form with appendix and continuation sheet for annual production payments. The BCAP producer forms and worksheets will be used for sign up, determining the offer soil rental rate, and contracting. The BCAP producer forms will capture the terms and conditions of the contract into electronic form, as well as be used to determine eligibility of the producer and the producer's contract acreage. The BCAP producer contract will also use the existing AD-1026 and BCAP-817U form. 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 will not violate either Highly Erodible Land Compliance (HELC) or wetland conservation provisions. Most producers will already have existing AD-1026 forms. In addition we will also require producers to complete and submit the BCAP-817U form annually for the certification of compliance with BCAP. Annual payments to producers will be administered using a BCAP-3 contract, which is Web based and provides a payment calculation method that is similar to the existing AD-245 form. Other forms will be used as needed to facilitate payments for special circumstances, such as assignment of payment (CCC-36 form), joint payment authority (CCC-37 form), applicant's agreement to complete an uncompleted practice (FSA-18 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).

For establishment payments, FSA employees in addition to the BCAP producer form and worksheet and AD-1026 form, will use the new Web based conservation cost share forms (FSA-848, FSA-848A, FSA-848B, FSA-848-1, FSA-848A-1, and FSA-848B-1 forms). The FSA-848 form is a cost-share application used to document the producer's request for conservation cost share and the needs determination, which is completed to determine the actual amount of cost share that is needed, and to estimate and calculate the establishment costs for agricultural and nonindustrial private forest landowners that enter into BCAP and propose to convert land to renewable crops or establish renewable crops. The FSA-848A form is used to record the approval of a conservation cost share agreement (which when approved is a contract), the amount of cost share approved, and the producer's acknowledgement of the approval. FSA-848B form is used to record performance of conservation practices agreed to in the conservation cost share contract and cost share payments associated with that performance. The FSA-848, FSA-848A, and FSA-848B forms each include a continuation form (FSA-848-1, FSA-848A-1, and FSA-848B-1, respectively). Producers will be required to provide an annual report of acreage using the existing Web based FSA-578 form.

FSA is also adding burden for the use of some of the same forms for ECP into this proposed rule for public comment. ECP is one of the other conservation programs covered under OMB control number 0560-0082. ECP provides cost-share assistance to farmers and ranchers to rehabilitate farmland damaged by wind erosion, floods, hurricanes, or other natural disasters, and for carrying out emergency water conservation measures during periods of severe drought. ECP will use the FSA-848, FSA-848A, FSA-848B, FSA-848-1, FSA-848A-1 and FSA-848B-1 forms. These forms will be used to more efficiently collect information when Web-based conservation cost share software is fully implemented. The ECP burden in this proposed rule will also be rolled into the existing approval under the OMB control number 0560-0082.

*Estimate of Burden:* Public reporting burden for the collection of information is estimated to average 1 hour. The average travel time, which is included



below in the total burden, is estimated to be 1 hour per respondent.

*Respondents:* Individuals, Indian Tribes, units of State or local government, partnerships, corporations, farm cooperatives, farmer cooperative organizations, associations of agricultural producers, national laboratories, institutions of higher education, rural electric cooperatives, public power entities, consortia of any of these entities, biomass conversion facilities that own or operate eligible land, and any other legal entities.

*Estimated Number of Respondents:* 336,900.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Responses:* 681,900.

*Estimated Total Annual Burden on Respondents:* 265,233.

We are requesting comments on all aspects of the information collection to help us to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

#### E-Government Act Compliance

CCC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### List of Subjects in 7 CFR Part 1450

Administrative practice and procedure, Agriculture, Energy, Environmental protection, Grant programs—agriculture, Natural resources, Reporting and recordkeeping requirements, Technical assistance.

For the reasons discussed in the preamble, the Commodity Credit Corporation (USDA) proposes to add 7 CFR part 1450 to read as follows:

### PART 1450—BIOMASS CROP ASSISTANCE PROGRAM (BCAP)

#### Subpart A—Common Provisions

##### Sec.

- 1450.1 Administration.
- 1450.2 Definitions.
- 1450.3 General description.
- 1450.4 Violations.
- 1450.5 Performance based on advice or action of USDA.
- 1450.6 Access to land.
- 1450.7 Division of payments and provisions about tenants and sharecroppers.
- 1450.8 Payments not subject to claims.
- 1450.9 Assignments.
- 1450.10 Appeals.
- 1450.11 Scheme or device.
- 1450.12 Filing of false claims.
- 1450.13 Miscellaneous.

#### Subpart B—Matching Payments

- 1450.101 Qualified biomass conversion facility.
- 1450.102 Eligible material owner.
- 1450.103 Eligible material.
- 1450.104 Signup.
- 1450.105 Obligations of participant.
- 1450.106 Payments.
- 1450.107–1450.199 [Reserved]

#### Subpart C—Establishment and Annual Payments

- 1450.200 General description.
- 1450.201 Project area submission requirements.
- 1450.202 Project area selection criteria.
- 1450.203 Eligible persons and legal entities.
- 1450.204 Eligible land.
- 1450.205 Duration of contracts.
- 1450.206 Obligations of participant.
- 1450.207 Conservation plans and forest stewardship plans.
- 1450.208 Eligible practices.
- 1450.209 Signup.
- 1450.210 Acceptability of offers.
- 1450.211 BCAP contract.
- 1450.212 Establishment payments.
- 1450.213 Levels and rates for cost-share payments.
- 1450.214 Annual payments.
- 1450.215 Transfer of land.

*Authority:* 7 U.S.C. 8111; 15 U.S.C. 714b and 714c.

#### Subpart A—Common Provisions

##### § 1450.1 Administration.

(a) The regulations in this part are administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), or a designee, or the Deputy Administrator, Farm Programs, Farm Service Agency (FSA), (Deputy Administrator). In the field, the regulations in this part will be implemented by the FSA State and county committees ("State committees" and "county committees," respectively).

(b) State executive directors, county executive directors, and State and county committees do not have the authority to modify or waive any of the

provisions in this part unless specifically authorized by the Deputy Administrator.

(c) The State committee may take any action authorized or required by this part to be taken by the county committee, but which has not been taken by such committee, such as:

(1) Correct or require a county committee to correct any action taken by such county committee that is not in accordance with this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No delegation of authority herein to a State or county committee will preclude the Executive Vice President, CCC, or a designee, or the Deputy Administrator from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee.

(e) Data furnished by participants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, the failure to provide data could result in program benefits being withheld or denied.

##### § 1450.2 Definitions.

(a) The definitions in part 718 of this chapter apply to this part and all documents issued in accordance with this part, except as otherwise provided in this section.

(b) The following definitions will apply to this part:

*Advanced biofuel* means fuel derived from renewable biomass other than corn kernel starch, including biofuels derived from cellulose, hemicellulose, or lignin; biofuels derived from sugar and starch (other than ethanol derived from corn kernel starch); biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste; diesel-equivalent fuel derived from renewable biomass including vegetable oil and animal fat; biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass; and butanol or other alcohols produced through the conversion of organic matter from renewable biomass and other fuel derived from cellulosic biomass.

*Agricultural land* means cropland, grassland, pastureland, rangeland, hayland, and other land on which food, fiber, or other agricultural products are produced or capable of being produced.

*Animal waste* means waste associated with animal operations such as confined beef or dairy, poultry, or swine operations including manure,



contaminated runoff, milking house waste, dead poultry, bedding, and spilled feed. Depending on the poultry system, animal waste can also include litter, wash-flush water, and waste feed.

**Annual payment** means the annual payment specified in the BCAP contract that is made to a participant to compensate a participant for placing eligible land in BCAP.

**Beginning farmer or rancher** means, as determined by CCC, an individual or entity who:

- (1) Has not operated a farm or ranch for more than 10 years;
- (2) Materially and substantially participates in the operation of the farm or ranch; and
- (3) If an entity, is an entity in which all members or stockholders of the entity meet the provisions in paragraphs (1) and (2) of this definition.

**Biobased product** means a product determined by CCC to be a commercial or industrial product (other than food or feed) that is:

- (1) Composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or
- (2) An intermediate ingredient or feedstock.

**Bioenergy** means renewable energy produced from organic matter. Organic matter may be used directly as a fuel, be processed into liquids and gases, or be a residual of processing and conversion.

**Biomass conversion facility** means a facility that converts or proposes to convert eligible material into heat, power, biobased products, or advanced biofuels.

**Conservation district** is as defined in part 1410 of this chapter.

**Conservation plan** means a record of the participant's decisions and supporting information for treatment of a unit of land or water, and includes a schedule of operations, activities, and estimated expenditures needed to solve identified natural resource problems by devoting eligible land to permanent vegetative cover, trees, water, or other comparable measures.

**Contract acreage** means eligible land that is covered by a BCAP contract between the producer and CCC.

**Deputy Administrator** means the Deputy Administrator for Farm Programs, FSA, or a designee.

**Dry ton** means one U.S. ton measuring 2,000 pounds. One dry ton (ODT, sometimes termed as oven- or bone-dry ton) is the amount of renewable biomass that would weigh one U.S. ton at zero percent moisture content.

**Eligible biomass** means a crop of renewable biomass as defined in this section excluding:

- (1) Whole grain derived from a crop of barley, corn, grain sorghum, oats, rice, or wheat; honey; mohair; oilseeds such as canola, crambe, flaxseed, mustard seed, rapeseed, safflower seed, soybeans, sesame seed, and sunflower seeds; peanuts; pulse crops such as small chickpeas, lentils, and dry peas; dairy products; sugar; wool; and cotton boll fiber; and
- (2) Any plant that CCC has determined to be either a noxious weed or an invasive species. With respect to noxious weeds and invasive species, a list of such plants will be available in the FSA county office.

**Eligible material** is renewable biomass as defined in this section excluding:

- (1) Whole grain derived from a crop of barley, corn, grain sorghum, oats, rice, and wheat; oilseeds such as canola, crambe, flaxseed, mustard seed, rapeseed, safflower seed, soybeans, sesame seed, and sunflower seeds; peanuts, pulse crops such as small chickpeas, lentils, and dry peas; dairy products; sugar; wool; and cotton boll fiber;
- (2) Animal waste and byproducts of animal waste including fats, oils, greases, and manure;
- (3) Food waste and yard waste; and
- (4) Algae.

**Eligible material owner**, for purposes of the matching payment, means a person or entity having the right to collect or harvest eligible material and who has delivered or intends to deliver the eligible material to a qualified biomass conversion facility, including:

- (1) For eligible material harvested or collected from private lands, including cropland, the owner of the land, the operator or producer conducting farming operations on the land, or any other person designated by the owner of the land; and
- (2) For eligible material harvested or collected from public lands, a person having the right to harvest or collect eligible material pursuant to a contract or permit with the Forest Service or other appropriate Federal agency, such as a timber sale contract, stewardship contract or agreement, service contract or permit, or related applicable Federal land permit or contract, and who has submitted a copy of the permit or contract authorizing such collection to CCC.

**Establishment payment** means the payment made by CCC to assist program participants in establishing the practices required for non-woody perennial crops and woody perennial crops, as specified in a producer contract.

**Food waste** means a material composed primarily of food items, or originating from food items, or

compounds from domestic, municipal, food service operations, or commercial sources, including food processing wastes, residues, or scraps.

**Forest stewardship plan** means a long-term, comprehensive, multi-resource forest management plan that is prepared by a professional resource manager and approved by the State Forester or equivalent State official. Forest Stewardship Plans address the following resource elements wherever present, in a manner that is compatible with landowner objectives concerning:

- (1) Soil and water;
- (2) Biological diversity;
- (3) Range;
- (4) Aesthetic quality;
- (5) Recreation;
- (6) Timber;
- (7) Fish and wildlife;
- (8) Threatened and endangered species;
- (9) Forest health;
- (10) Archeological, cultural and historic sites;
- (11) Wetlands;
- (12) Fire; and
- (13) Carbon cycle.

**Highly erodible land** means land determined as specified in part 12 of this title.

**Indian Tribe** has the same meaning as in 25 U.S.C. 450b (section 4 of the Indian Self-Determination and Education Assistance Act).

**Intermediate ingredient or feedstock** means an ingredient or compound made in whole or in significant part from biological products, including renewable agricultural material (including plant, animal, and marine material), or forestry material that is subsequently used to make a more complex compound or product.

**Institution of higher education** has the same meaning as in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).

**Matching payments** means those CCC payments provided to the owner of eligible material delivered to a qualified biomass conversion facility.

**Native sod** means land:

- (1) On which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and
- (2) That has never been tilled for the production of an annual crop as of [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].

**Nonindustrial private forest land** means rural lands with existing tree cover, or that are suitable for growing trees, which are owned by any private individual, group, association, corporation, Indian Tribe, or other



private legal entity, consistent with the definitions of nonindustrial private forest land and landowner in 36 CFR 230.2, and the regulations in 36 CFR 230.31.

*Offer* means, unless otherwise indicated, the per-acre rental payment requested by the owner or operator in such owner's or operator's request to participate in the establishment and annual payment component of BCAP.

*Operator* means a person who is in general control of the land enrolled in BCAP, as determined by CCC.

*Payment period* means a contract period of either up to 5-years for annual and non-woody perennial crops, or up to 15 years for woody perennial crops during which the participant receives an annual payment under the establishment and annual payment component of BCAP.

*Producer* means an owner or operator of contract acreage that is physically located within a project area under the establishment and annual payment component of BCAP.

*Project area* means a geographic area with specified boundaries submitted by a project sponsor and approved by CCC under the establishment and annual payment component of BCAP.

*Project sponsor* means a group of producers or a biomass conversion facility who proposes a project area.

*Qualified biomass conversion facility* means a biomass conversion facility that meets all the requirements for BCAP qualification, and whose facility representatives enter into a BCAP agreement with CCC.

*Related-party transaction* means a transaction between two or more ready, willing, and able organizations, trades, or business (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) substantially owned or controlled directly or indirectly by the same interests, as determined by the Deputy Administrator.

*Renewable biomass* means the following:

(1) Materials, pre-commercial thinnings, or invasive species from National Forest System land and U.S. Department of the Interior Bureau of Land Management land that:

(i) Are byproducts of preventive treatments that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health;

(ii) Would not otherwise be used for higher-value products; and

(iii) Are harvested in accordance with applicable law and land management plans and the requirements for old-growth maintenance, restoration, and

management direction of sections 102(e)(2), (3), and (4) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512) and large-tree retention provisions of subsection (f); or

(2) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including:

(i) Renewable plant material (including feed grains, other agricultural commodities, other plants and trees, or algae);

(ii) Waste material, including:

(A) Crop residue;

(B) Other vegetative waste material (including wood waste and wood residues that would not otherwise be used for higher-value products);

(C) Animal waste and byproducts (including fats, oils, greases, and manure); and

(D) Food waste and yard waste.

*Socially disadvantaged farmer or rancher* means, unless other classes of persons are approved by the Deputy Administrator in writing, persons who are:

(1) American Indians or Alaska Natives (that is, persons who are members of that class of persons who originally settled Alaska);

(2) Asian-Americans;

(3) African-Americans; or

(4) Hispanic-Americans.

*Technical assistance* means assistance in determining the eligibility of land and practices for BCAP, implementing and certifying practices, ensuring contract performance, and providing annual rental rate surveys. The technical assistance provided in connection with BCAP to owners or operators, as approved by CCC, includes, but is not limited to: Technical expertise, information, and tools necessary for the conservation of natural resources on land; technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and technical infrastructure, including activities, processes, tools, and functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

*Tribal government* means any Indian Tribe, band, nation, or other organized group, or community, including pueblos, rancherias, colonies and any Alaska Native Village, or regional or

village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601–1629b), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*United States* means all fifty States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the District of Columbia.

*Violation* means an act by the participant, either intentional or unintentional, that would cause the participant to no longer be eligible to receive or retain all or a portion of BCAP payments.

*Yard waste* means a waste material derived from the urban environment including construction and demolition debris and municipal solid waste.

#### **§1450.3 General description.**

(a) The objectives of BCAP are to:

(1) Support the establishment and production of eligible crops for conversion to bioenergy in selected project areas; and

(2) Assist agricultural and forest landowners and operators with matching payments to support the collection, harvest, storage, and transportation costs of eligible material for use in a biomass conversion facility.

(b) A participant must implement and adhere to a conservation plan prepared in accordance with BCAP guidelines, as established and determined by CCC. A conservation plan for contract acreage must be implemented by a participant and must be approved by the conservation district in which the lands are located. If the conservation district declines to review the plan, the provider of technical assistance may take such further action as is needed to account for lack of such review.

(c) Agricultural and forest landowners and operators must comply with any existing conservation plans, forest stewardship plans and any other applicable laws for any removal of eligible material for use in a biomass conversion facility to receive matching payments.

(d) Except as otherwise provided, a participant may receive, in addition to any payments under this part, cost-share assistance, rental or easement payments, tax benefits, or other payments from a State or a private organization in return for enrolling lands in BCAP, without any commensurate reduction in BCAP payments.

#### **§1450.4 Violations.**

(a)(1) If a participant fails to carry out the terms and conditions of a BCAP



contract, CCC may terminate the BCAP contract.

(2) If the BCAP contract is terminated by CCC in accordance with this paragraph:

(i) The participant will forfeit all rights to further payments under such contract and must refund all payments previously received, plus interest; and

(ii) The participant must pay liquidated damages to CCC in an amount as specified in the contract.

(b) CCC may reduce a demand for a refund under this section to the extent CCC determines that such relief would be appropriate and would not deter the accomplishment of the goals of the program.

**§ 1450.5 Performance based on advice or action of USDA.**

(a) The provisions of § 718.303 of this title relating to performance based on the action or advice of an authorized representative of USDA applies to this part, and may be considered as a basis to provide relief to persons subject to sanctions under this part to the extent that relief is otherwise required by this part.

(b) [Reserved]

**§ 1450.6 Access to land.**

(a) For purposes related to this program, any representative of the U.S. Department of Agriculture, or designee thereof, must be provided with access to land that is:

(1) The subject of an application for a contract under this part; or

(2) Under contract or otherwise subject to this part.

(b) For land identified in paragraph (a) of this section, the participant must provide such representatives or designees with access to examine records for the land to determine land classification, eligibility, or for other purposes, and to determine whether the participant is in compliance with the terms and conditions of the BCAP contract.

**§ 1450.7 Division of payments and provisions about tenants and sharecroppers.**

(a) Payments received under this part will be divided as specified in the applicable contract. CCC may refuse to enter into a contract when there is a disagreement among persons or legal entities seeking enrollment as to a person's or legal entity's eligibility to participate in the contract as a tenant or sharecropper, and there is insufficient evidence, as determined by CCC, to indicate whether the person or legal entity seeking participation as a tenant or sharecropper has an interest in the

acreage offered for enrollment in the BCAP.

(b) CCC may remove an operator or tenant from a BCAP contract when:

(1) The operator or tenant requests in writing to be removed from the BCAP contract;

(2) The operator or tenant files for bankruptcy and the trustee or debtor in possession fails to affirm the contract, to the extent permitted by applicable bankruptcy laws;

(3) The operator or tenant dies during the contract period and the administrator of the estate fails to succeed to the contract within a period of time determined appropriate by the Deputy Administrator; or

(4) A court of competent jurisdiction orders the removal of the operator or tenant from the BCAP contract and such order is received by CCC.

(c) Tenants who fail to maintain tenancy on the acreage under contract for any reason may be removed from a contract by CCC.

**§ 1450.8 Payments not subject to claims.**

(a) Subject to part 1403 of this chapter, any cost-share or annual payment or portion of the payment due any person or legal entity under this part will be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any creditor, except agencies of the U.S. Government.

(b) [Reserved]

**§ 1450.9 Assignments.**

(a) Participants may assign the right to receive such cash payments, in whole or in part, as provided in part 1404 of this chapter.

(b) [Reserved]

**§ 1450.10 Appeals.**

(a) Except as provided in paragraph (b) of this section, a person or legal entity applying for participation may appeal or request reconsideration of an adverse determination in accordance with the administrative appeal regulations at parts 11 and 780 of this title.

(b) Determinations by the Natural Resources Conservation Service may be appealed in accordance with procedures established under part 614 of this title or otherwise established by the Natural Resources Conservation Service.

**§ 1450.11 Scheme or device.**

(a) If CCC determines that a person or legal entity has employed a scheme or device to defeat the purposes of this part, or any part, of any USDA program, payment otherwise due or paid such person or legal entity during the

applicable period may be required to be refunded with interest, as determined appropriate by CCC.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person or legal entity of cost-share assistance or annual payments, or obtaining a payment that otherwise would not be payable.

(c) A new owner or operator or tenant of land subject to this part who succeeds to the contract responsibilities must report in writing to CCC any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest may include a present, future, or conditional interest, reversionary interest, or any option, future or present, on such land, and any interest of any lender in such land where the lender has, will, or can legally obtain, a right of occupancy to such land or an interest in the equity in such land other than an interest in the appreciation in the value of such land occurring after the loan was made. Failure to fully disclose such interest will be considered a scheme or device under this section.

**§ 1450.12 Filing of false claims.**

(a) If CCC determines that any participant has knowingly supplied false information or has knowingly filed a false claim, such participant will be ineligible for payments under this part with respect to the fiscal year in which the false information or claim was filed and the contract may be terminated, in which case CCC may demand a full refund of all prior payments.

(b) False information or false claims include, but are not limited to, claims for payment for practices that do not comply with the conservation plan. Any amounts paid under these circumstances must be refunded to CCC, together with interest as determined by CCC, and any amounts otherwise due the participant will be withheld.

(c) The remedies provided for in this section will be in addition to any other remedy available to CCC and in addition to any criminal penalty.

**§ 1450.13 Miscellaneous.**

(a) Except as otherwise provided in this part, in the case of death, incompetency, or disappearance of any participant, any payments due under this part will be paid to the participant's successor(s) in accordance with part 707 of this title.

(b) Unless otherwise specified in this part, payments under this part will be subject to the compliance requirements of part 12 of this title concerning highly



erodible land and wetland conservation and payments.

(c) Any remedies permitted CCC under this part will be in addition to any other remedy, including, but not limited to, criminal remedies or actions for damages in favor of CCC, or the United States, as may be permitted by law. The Deputy Administrator may add to the contract such additional terms as are needed to enforce these regulations, which will be binding on the parties and may be enforced to the same degree as the other provisions of these regulations.

(d) Absent a scheme or device to defeat the purposes of the program, when an owner loses control of BCAP acreage enrolled under Subpart C of this part due to foreclosure and the new owner chooses not to continue the contract in accordance with § 1450.215 refunds will not be required from any participant on the contract to the extent that the Deputy Administrator determines that forgiving such repayment is appropriate in order to provide fair and equitable treatment.

#### Subpart B—Matching Payments

##### § 1450.101 Qualified biomass conversion facility.

(a) To be considered a qualified biomass conversion facility, a biomass conversion facility must enter into an agreement with CCC and must:

(1) Meet all applicable regulatory and permitting requirements by applicable Federal, State, or local authorities;

(2) Agree in writing to:

(i) Maintain accurate records of all eligible material purchases and related documents regardless of whether matching payments will be sought; and

(ii) Make available at one place and at all reasonable times for examination by representatives of USDA, all books, papers, records, contracts, scale tickets, settlement sheets, invoices, written price quotations, or other documents related to the program for not less than 3 years from the date of application as a qualified biomass conversion facility;

(iii) Make information available to USDA and institutes of higher education and to allow general information about the facility and its eligible material to be made public by USDA and other entities after qualification is determined;

(iv) Clearly indicate on the scale ticket or equivalent the actual tonnage delivered, provide a copy of the scale ticket(s) or equivalent, and provide it to the eligible material owner;

(v) Calculate a total dry ton weight equivalent to the actual tonnage delivered and provide that measurement to the eligible material owner;

(vi) Use commercial weight scales that are certified for accuracy by applicable State or local authorities and accurate moisture measurement equipment to determine the dry ton weight equivalent of actual tonnage delivered; and

(vii) For those facilities that convert vegetative waste materials such as wood wastes and wood residues into heat or power for consumption at the facility, provide the Deputy Administrator with such information as needed to establish the historical baseline for heat or power production from wood wastes or residues.

(b) For a qualified biomass conversion facility, CCC will periodically inform the public that matching payments may be available for deliveries of eligible material to such qualified biomass conversion facility. CCC will maintain a 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.

##### § 1450.102 Eligible material owner.

(a) In order to be eligible for a BCAP matching payment, a person or legal entity must:

(1) Be a producer of an eligible crop that is produced on BCAP contract acreage authorized by this subpart.

(2) Have the right to collect or harvest eligible material.

(3) Not be a party to a related-party transaction.

(b) A qualified biomass conversion facility that meets the requirements of paragraph (a) of this section may be considered an eligible material owner if it otherwise meets the definition in this part.

##### § 1450.103 Eligible material.

(a) In order to be eligible for a matching payment, an eligible material owner must have harvested or collected eligible material that was delivered to a qualified biomass conversion facility.

(b) Eligible material must be a renewable biomass that, at a minimum, meets the definition in § 1450.3 or is listed as an eligible material on <http://www.fsa.usda.gov/energy>.

(c) Matching payments are not authorized for:

(1) Any eligible material delivered before [DATE OF PUBLICATION OF THE FINAL RULE IN THE *FEDERAL REGISTER*].

(2) Any eligible material for which payment is received before the application for payment is received and approved by the county FSA office, in accordance with § 1450.104 of this part.

(3) Eligible material delivered to a qualified Biomass Conversion facility

used to produce black liquor, an industrial waste by-product of the pulp and kraft paper manufacturing process which consists primarily of inorganic chemicals used in the pulping process, lignin, hemicellulose, and cellulose. In addition, black liquor is not an eligible material.

##### § 1450.104 Signup.

(a) Applications for matching payments will be accepted on a continuous basis.

(b) An eligible material owner must apply for matching payments at the FSA county office before payment for the eligible material from a qualified biomass conversion facility is received. "The request must be submitted and approved by CCC before any payment is made by the facility for the eligible material."

(c) Applications must include the following estimates based on information obtained from contracts, agreements, or letters of intent:

(1) An estimate of the total dry tons of eligible material expected to be sold to a qualified biomass conversion facility;

(2) The type(s) of eligible material that is expected to be sold;

(3) The name of the qualified biomass conversion facility that will purchase the eligible material;

(4) The expected per dry ton price the owner plans to receive for the delivery of the eligible material; and

(5) The date or dates the eligible material is expected to be delivered to the facility.

(d) Eligible material owners who deliver eligible material to more than one qualified biomass conversion facility must submit separate applications for each facility to which eligible material will be delivered.

(e) After delivery, eligible material owners must notify CCC and request the matching payment. Matching payments will be disbursed only after delivery is verified by FSA.

(f) Other information that must be submitted to FSA in order to receive matching payments includes settlement, summary, or other acceptable data that provide the:

(1) Total actual tonnage delivered and a total dry weight tonnage equivalent amount determined by the qualified biomass conversion facility using standard moisture determinations applicable to the eligible material;

(2) Total payment received, including the per-ton payment rate(s) matched with actual and dry weight tonnage delivered; and

(3) Qualified biomass conversion facility's certification as to the authenticity of the information.



**§ 1450.105 Obligations of participant.**

(a) All participants whose BCAP matching payment application was approved must agree to:

(1) Carry out the terms and conditions of such BCAP matching payment application; and

(2) Be jointly and severally responsible, if the participant has a share of the payment greater than zero, with the other contract participants for compliance with the provisions of such contract and the provisions of this part, and for any refunds or payment adjustments that may be required for violations of any of the terms and conditions of the BCAP contract and this part.

(b) [Reserved]

**§ 1450.106 Payments.****Option 1 for § 1450.106**

(a) Payments under this subpart will be for a term not to exceed two years beginning the date that the first matching payment to a person or entity is issued by CCC.

(b) Payments under this subpart will be paid at a rate of \$1 for each \$1 per ton received from a qualified biomass conversion facility for the commercial sale of eligible materials used to produce anything other than cellulosic ethanol (heat, power, or biobased products) in an amount up to \$16 per ton.

(c) Payments under this subpart will be paid at a rate of \$1 for each \$1 per ton received from a qualified biomass conversion facility for the commercial sale of materials used to produce cellulosic ethanol in an amount up to \$45 per ton.

**Option 2 for § 1450.106**

(a) Payments under this subpart will be for a term not to exceed two years beginning the date that the first matching payment to a person or entity is issued by CCC.

(b) Payments under this subpart will be paid at a rate of \$1 for each \$1 per ton received from a qualified biomass conversion facility for the commercial sale of eligible material in an amount up to \$45 per ton.

(c) For those biomass conversion facilities converting vegetative waste materials, such as wood waste and wood residues, to heat or power consumed by the facility, no payments may be made under this subpart for material unless the material is converted to heat or power above that facility's historical baseline for heat or power production from renewable biomass as established by the Deputy Administrator.

**Option 3 for § 1450.106**

(a) Payments under this subpart will be for a term not to exceed two years beginning the date that the first matching payment to a person or entity is issued by CCC.

(b) Payments under this subpart will be paid at a rate of \$1 for each \$1 per ton received from a qualified biomass conversion facility for the commercial sale of eligible material in an amount up to \$45 per ton to facilities that:

(1) Fully convert from fossil fuel consumption to renewable biomass feedstocks;

(2) For eligible material showing exceptional promise for producing innovative advanced biofuels, renewable energy, or biobased products; or

(3) For every ton of renewable biomass consumption above a facility's established historical baseline.

(c) Payments under this subpart will be paid at a rate of \$1 for each \$1 per ton received from a qualified biomass conversion facility for the commercial sale of eligible material in an amount up to \$16 per ton for those facilities that do not increase renewable biomass consumption over a historical baseline.

**§§ 1450.107–1450.199 [Reserved]****Subpart C—Establishment and Annual Payments****§ 1450.200 General description.**

As provided in this subpart, "establishment and annual payments" may be provided by CCC to producers of eligible crops in a project area.

**§ 1450.201 Project area submission requirements.**

(a) To be considered for selection as a project area, a project sponsor must submit a proposal to CCC that includes, at a minimum:

(1) A description of the eligible land and eligible crops of each producer that will participate in the proposed project area;

(2) A letter of commitment from a biomass conversion facility stating that the facility will use, for BCAP purposes, eligible crops intended to be produced in the proposed project area;

(3) Evidence that the biomass conversion facility has sufficient equity available to operate if the facility is not operational at the time the project area proposal is submitted; and

(4) Other information that gives CCC a reasonable assurance that the biomass conversion facility will be in operation by the time that the eligible crops are ready for harvest.

(b) The project area description required in paragraph (a) of this section

needs to specify geographic boundaries and be described in definite terms such as acres, watershed boundaries, mapped longitude and latitude coordinates, or counties.

(c) The project area needs to be physically located near a biomass conversion facility or facilities.

(d) Project area proposals may limit the nature and types of eligible crops to be planted within a project area.

**§ 1450.202 Project area selection criteria.**

In selecting project areas, CCC will consider:

(a) The 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;

(b) The dry tons of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;

(c) The anticipated economic impact in the proposed project area;

(d) The opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed project area;

(e) The participation rate by beginning or socially disadvantaged farmers or ranchers;

(f) The impact on soil, water, and related resources;

(g) The variety in biomass production approaches within a project area, including agronomic conditions, harvest and postharvest practices, and monoculture and polyculture crop mixes;

(h) The range of eligible crops among project areas; and

(i) Any other additional criteria, as determined by CCC.

**§ 1450.203 Eligible persons and legal entities.**

(a) In order to be eligible to enter into a BCAP contract in accordance with this subpart, a person or legal entity must be an owner, operator, or tenant of eligible land, as defined in § 1450.204.

(b) [Reserved]

**§ 1450.204 Eligible land.**

(a) For the purposes of this subpart, eligible land means agricultural land including cropland, grassland, pastureland, rangeland, hayland, or other lands on which food, fiber, or other agricultural products are produced or capable of being produced, or nonindustrial private forest lands.

(b) For the purposes of this subpart, eligible land is not:

(1) Federal- or State-owned land;

(2) Land that is native sod as of

[DATE OF PUBLICATION OF THE



**FINAL RULE IN THE FEDERAL REGISTER];**

(3) Land enrolled in the conservation reserve program authorized under the regulations at part 1410 of this chapter;

(4) Land enrolled in the wetlands reserve program authorized under the regulations at part 1467 of this chapter; or

(5) Land enrolled in the grassland reserve program authorized under the regulations at part 1415 of this chapter.

**§ 1450.205 Duration of contracts.**

(a) Contracts under this subpart will be for a term of up to:

(1) 5 years for annual and non-woody perennial crops; and

(2) 15 years for woody perennial crops.

(b) The establishment time period may vary due to: Type of crop, agronomic conditions (establishment time frame, winter hardiness, *etc.*), and other factors.

**§ 1450.206 Obligations of participant.**

(a) All participants subject to a BCAP contract must:

(1) Carry out the terms and conditions of such BCAP contract;

(2) Make available to CCC or to an institution of higher education or other entity designated by CCC, such information as CCC determines to be appropriate to promote the production of eligible crops and the development of biomass conversion technology;

(3) Comply with the highly erodible land and wetland conservation requirements of part 12 of this chapter;

(4) Implement a:

(i) Conservation plan or

(ii) Forest stewardship plan or an equivalent plan.

(5) Implement the conservation plan, which is part of such contract, in accordance with the schedule of dates included in such conservation plan, unless both:

(i) The Deputy Administrator determines that the participant cannot fully implement the conservation plan for reasons beyond the producer's control, and

(ii) CCC agrees to a modified plan.

(6) The producer will demonstrate compliance with the conservation or forest stewardship plan through required self certification and FSA will spot check compliance with the plans.

(7) Establish temporary vegetative cover either within the timeframes required by the conservation plan or as determined by the Deputy Administrator, if the permanent vegetative cover cannot be timely established; and

(8) If the participant has a share of the payment greater than zero, be jointly

and severally responsible with the other contract participants for compliance with the provisions of such contract and the provisions of this part, and for any refunds or payment adjustments that may be required for violations of any of the terms and conditions of the BCAP contract and this part.

(b) Under the proposed rule, payments may cease and producers may be subject to contract termination for failure to plant eligible crops.

(c) A contract will not be terminated for failure by the participant to establish an approved cover on the land if, as determined by the Deputy Administrator:

(1) The failure to plant or establish such cover was due to excessive rainfall, flooding, or drought; and

(2) The land on which the participant was unable to plant or establish such cover is planted or established to such cover as soon as practicable after the wet or drought conditions that prevented the planting or establishment subside.

**§ 1450.207 Conservation plans and forest stewardship plans.**

(a) The producer must implement a conservation plan, forest stewardship plan or equivalent plan that complies with CCC guidelines and is approved by the appropriate conservation district for the land to be entered in BCAP. If the conservation district declines to review the conservation plan, or disapproves the conservation plan, such approval may be waived by CCC.

(b) The practices and management activities included in a conservation plan, forest stewardship plan or equivalent plan, and agreed to by the producer, must be implemented in a cost-effective manner that meets BCAP goals and purposes.

(c) If applicable, a tree planting plan must be developed and included in the conservation plan, forest stewardship plan or equivalent plan. Such tree planting plan may allow a reasonable time to complete plantings, as determined by CCC.

(d) All conservation plans, forest stewardship plans or equivalent plans, and revisions of such plans, will be subject to approval by CCC.

**§ 1450.208 Eligible practices.**

Eligible practices are those practices specified in the conservation or forestry plan that meet all standards needed to cost-effectively establish:

(a) Annual crops;

(b) Non-woody perennial crops; and

(c) Woody perennial crops.

**§ 1450.209 Signup.**

(a) Offers for contracts may be submitted on a continuous basis to FSA as determined by the Deputy Administrator.

(b) [Reserved]

**§ 1450.210 Acceptability of offers.**

(a) Acceptance or rejection of any contract offered will be at the sole discretion of CCC, and offers may be rejected for any reason as determined to accomplish the goals of the program.

(b) An offer to enroll land in BCAP will be irrevocable for such period as is determined and announced by CCC. The producer will be liable to CCC for liquidated damages if the applicant revokes an offer during the period in which the offer is irrevocable as determined by the Deputy Administrator. CCC may waive payment of such liquidated damages if CCC determines that the assessment of such damages, in a particular case, is not in the best interest of CCC and the program.

**§ 1450.211 BCAP contract.**

(a) In order to enroll land in BCAP, the participant must enter into a contract with CCC.

(b) The BCAP contract is comprised of:

(1) The terms and conditions for participation in BCAP;

(2) The conservation plan, forest stewardship plan or equivalent plan; and

(3) Any other materials or agreements determined necessary by CCC.

(c) In order to enter into a BCAP contract, the producer must submit an offer to participate as specified in § 1450.209;

(d) The BCAP contract must, within the dates established by CCC, be signed by:

(1) The producer; and

(2) The owners of the eligible land to be placed in the BCAP and other eligible participants, if applicable.

(e) The Deputy Administrator is authorized to approve BCAP contracts on behalf of CCC.

(f) CCC will honor BCAP contracts even in the event that a project area biomass conversion facility does not become fully or partially operational.

(g) BCAP contracts may be terminated by CCC before the full term of the contract has expired if:

(1) The owner loses control of or transfers all or part of the acreage under contract and the new owner does not wish to continue the contract;

(2) The participant voluntarily requests in writing to terminate the contract and obtains the approval of



CCC according to terms and conditions as determined by CCC:

(3) The participant is not in compliance with the terms and conditions of the contract;

(4) The BCAP practice fails or is not established after a certain time period, as determined by the Deputy Administrator, and the cost of restoring the practice outweighs the benefits received from the restoration;

(5) The BCAP contract was approved based on erroneous eligibility determinations; or

(6) CCC determines that such a termination is needed in the public interest.

(h) Except as allowed and approved by CCC where the new owner of land enrolled in BCAP is a Federal agency that agrees to abide by the terms and conditions of the terminated contract, the participant in a contract that has been terminated must refund all or part of the payments made with respect to the contract plus interest, as determined by CCC, and must pay liquidated damages as provided for in the contract and this part. CCC may permit the amount(s) to be repaid to be reduced to the extent that such a reduction will not impair the purposes of the program. Further, a refund of all payments need not be required from a participant who is otherwise in full compliance with the BCAP contract when the land is purchased by or for the United States, as determined appropriate by CCC.

#### **§ 1450.212 Establishment payments.**

(a) Establishment payments will be made available upon a determination by CCC that an eligible practice, or an identifiable portion of a practice, has been established in compliance with the appropriate standards and specifications.

(b) Except as otherwise provided for in this part, such payments will be made only for the cost-effective establishment or installation of an eligible practice, as determined by CCC.

(c) Except as provided in paragraph (d) of this section, such payments will not be made to the same owner or operator on the same acreage for any eligible practices that have been previously established, or for which such owner or operator has received cost-share assistance from any Federal agency.

(d) Establishment payments may be authorized for the replacement or restoration of practices on land for which assistance has been previously allowed under BCAP, only if:

(1) Replacement or restoration of the practice is needed to achieve adequate erosion control, enhance water quality,

wildlife habitat, or increase protection of public wellheads; and

(2) The failure of the original practice was due to reasons beyond the control of the participant, as determined by the CCC.

(e) In addition, CCC may make partial payments when the producer completes identifiable components of the contract. CCC may make supplemental establishment payments, if necessary.

#### **§ 1450.213 Levels and rates for cost-share payments.**

(a) CCC will pay not more than 75 percent of the actual or average cost (whichever is lower) of establishing non-woody perennial crops and woody perennial crops specified in the BCAP conservation or forestry plan.

(b) The average cost of performing a practice may be determined by CCC based on recommendations from the State Technical Committee. Such cost may be the average cost in a State, a county, or a part of a State or county, as determined by the Deputy Administrator. The calculated 75 percent of the average cost may represent less than 75 percent of the actual cost for an individual participant.

(c) Except as otherwise provided for in this part, a participant may receive, in addition to any payment under this part, cost-share assistance, rental payments, or tax benefits from a State or a private organization in return for enrolling lands in BCAP without a commensurate reduction in BCAP payments.

#### **§ 1450.214 Annual payments.**

(a) Annual payments will be made in such amount and in accordance with such time schedule as may be agreed upon and specified in the BCAP contract.

(b) Based on the regulations at

§ 1410.42 of this chapter and as determined by CCC, annual payments include a payment based on:

(i) A weighted average soil rental rate for cropland;

(ii) The applicable marginal pastureland rental rate for all other land except for non-industrial private forest land; and

(iii) For forest land, the average county rental rate for cropland as adjusted for forestland productivity for non-industrial private forest land.

(c) The annual payment will be divided among the participants on a single contract as agreed to in such contract, as determined by CCC.

(d) A participant that has an established eligible crop and is therefore not eligible for establishment payments under § 1450.213 may be eligible for

annual payments under the provisions of this section.

(e) In the case of a contract succession, annual payments will be divided between the predecessor and the successor participants as agreed to among the participants and approved by CCC. If there is no agreement among the participants, annual payments will be divided in such manner deemed appropriate by the Deputy Administrator and such distribution may be prorated based on the actual days of ownership of the property by each party.

(f) Annual payments will be reduced:

(1) By 25 percent if an eligible crop is delivered to the biomass conversion facility; or

(2) On a dollar-for-dollar basis if:

(i) An eligible crop is used for a purpose other than the production of energy at the biomass conversion facility;

(ii) The producer receives a matching payment under subpart B of this part;

(iii) The producer violates a term of the contract; or

(iv) Other circumstances necessary to carry out BCAP, as determined by CCC.

#### **§ 1450.215 Transfer of land.**

(a)(1) If a new owner or operator purchases or obtains the right and interest in, or right to occupancy of, the land subject to a BCAP contract, such new owner or operator, upon the approval of CCC, may become a participant to a new BCAP contract with CCC for the transferred land.

(2) For the transferred land, if the new owner or operator becomes a successor to the existing BCAP contract, the new owner or operator will assume all obligations of the BCAP contract of the previous participant.

(3) If the new owner or operator is approved as a successor to a BCAP contract with CCC, then, except as otherwise determined by the Deputy Administrator:

(i) Cost-share payments will be made to the past or present participant who established the practice; and

(ii) Annual payments to be paid during the fiscal year when the land was transferred will be divided between the new participant and the previous participant in the manner specified in § 1450.214(c).

(b) If a participant transfers all or part of the right and interest in, or right to occupancy of, land subject to a BCAP contract and the new owner or operator does not become a successor to such contract within 60 days of such transfer, or such other time as the Deputy Administrator determines to be appropriate, such contract will be

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terminated with respect to the affected portion of such land, and the original participant:

(1) Forfeits all rights to any future payments for that acreage;

(2) Must refund all previous payments received under the contract by the participant or prior participants, plus interest, except as otherwise specified by the Deputy Administrator. The provisions of § 1450.211(g) will apply.

(c) Federal agencies acquiring property, by foreclosure or otherwise,

that contains BCAP contract acreage cannot be a party to the contract by succession. However, through an addendum to the BCAP contract, if the current operator of the property is one of the contract participants, the contract may remain in effect and, as permitted by CCC, such operator may continue to receive payments under such contract if:

(1) The property is maintained in accordance with the terms of the contract;

(2) Such operator continues to be the operator of the property; and

(3) Ownership of the property remains with such Federal agency.

Signed at Washington, DC, on February 2, 2010.

**Jonathan W. Coppess,**

*Executive Vice President, Commodity Credit Corporation, and Administrator, Farm Service Agency.*

(FR Doc. 2010-2556 Filed 2-3-10; 4:15 pm)

BILLING CODE 3410-05-P



**APPENDIX C:  
Notices of Intent**

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## Notices

Federal Register

Vol. 73, No. 191

Wednesday, October 1, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### AGENCY FOR INTERNATIONAL DEVELOPMENT

#### Office of Inspector General; Senior Executive Services (SES) Performance Review Board; Update

**AGENCY:** Office of Inspector General, U.S. Agency for International Development.

**ACTION:** Notice.

**SUMMARY:** This notice is hereby given of the appointment of members of the updated USAID OIG SES Performance Review Board.

**DATES:** September 21, 2008.

**FOR FURTHER INFORMATION CONTACT:** Paula F. Hayes, Assistant Inspector General for Management, Office of Inspector General, U.S. Agency for International Development, 1300 Pennsylvania Avenue, NW., Room 8.08-029, Washington, DC 20523-8700; telephone 202-712-0010; FAX 202-216-3392; Internet E-mail address: [phayes@usaid.gov](mailto:phayes@usaid.gov) (for E-mail messages, the subject line should include the following reference—USAID OIG SES Performance Review Board).

**SUPPLEMENTARY INFORMATION:** 5 U.S.C. 4314(b)(c) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management at 5 CFR part 430, subpart C and Section 430.307 thereof in particular, one or more Senior Executive Service Performance Review Boards. The board shall review and evaluate the initial appraisal of each USAID OIG senior executive's performance by his or her supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. This notice updates the membership of the USAID OIG's SES Performance Review Board as it was last published on November 20, 2007.

Approved: September 21, 2008.

The following have been selected as regular members of the SES

Performance Review Board of the U.S. Agency for International Development.  
Office of Inspector General:  
Michael G. Carroll, Deputy Inspector General;  
Adrienne Rish, Assistant Inspector General for Investigations;  
Paula F. Hayes, Assistant Inspector General for Management;  
Lisa S. Goldfuss, Legal Counsel;  
Alvin A. Brown, Assistant Inspector General, Millennium Challenge Corporation;  
Howard I. Hendershot, Deputy Assistant Inspector General for Investigations;  
Winona Varnon, Director, Security Services, Department of Education;  
Pauline K. Brunelli, Director, Federal Voting Assistance Program, Department of Defense;  
Aletha Brown, Inspector General, Equal Employment Opportunity Commission;  
Mark Bialek, Counsel to the Inspector General, Environmental Protection Agency;  
Theodore P. Alves, Assistant Inspector General Financial Information, Department of Transportation.

Dated: September 17, 2008.

Donald A. Gambatesa,

Inspector General.

[FR Doc. E8-23099 Filed 9-30-08; 8:45 am]

BILLING CODE 6116-01-P

### DEPARTMENT OF AGRICULTURE

#### Commodity Credit Corporation

#### Notice of Intent To Prepare an Environmental Impact Statement for the Biomass Crop Assistance Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Commodity Credit Corporation (CCC) intends to prepare an Environmental Impact Statement (EIS) for the Biomass Crop Assistance Program (BCAP). BCAP is a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The EIS will assess the potential environmental impacts of alternatives for administration and implementation of BCAP. BCAP is a CCC program administered by the Farm Service Agency (FSA) with the support

of other Federal and local agencies. As part of the EIS process, CCC is now soliciting input about potential alternatives for program implementation as well as potential environmental concerns associated with program implementation. CCC will develop and analyze a range of BCAP implementation alternatives. This Notice of Intent (NOI) informs the public of CCC's intent to solicit public comment on potential program alternatives and environmental concerns.

**DATES:** FSA, on behalf of CCC, invites comments on alternatives and environmental concerns related to BCAP. Submit comments by close of business on October 31, 2008, to ensure full consideration. We will consider comments submitted after this date, to the extent possible.

**ADDRESSES:** We invite you to submit comments on alternatives and environmental concerns related to BCAP. In your comments, include the volume, date, and page number of this issue of the *Federal Register*. You may submit comments by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **E-Mail:** [Matthew.Ponish@wdc.usda.gov](mailto:Matthew.Ponish@wdc.usda.gov).

- **Fax:** (202) 720-4619.

- **Mail:** Matthew T. Ponish, National Environmental Compliance Manager, USDA, FSA, CEPD, Stop 0513, 1400 Independence Ave., SW., Washington, DC 20250-0513.

- **Hand Delivery or Courier:** Deliver comments to the above address.

Comments may be inspected in the Office of the Director, CEPD, FSA, USDA, Room 4709 South Building, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this notice is available through the FSA home page at <http://www.fsa.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Matthew T. Ponish, (202) 720-6653. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:** BCAP is authorized by section 9001 of the 2008

Farm Bill (Pub. L. 110-246); the 2008 Farm Bill amended Title IX (Section 9011) of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171, commonly known as the 2002 Farm Bill). BCAP is intended to support the establishment and production of crops for conversion to bio-energy in project areas (locations) and to assist with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

As a new energy program, BCAP presents an opportunity to encourage landowners and operators to produce biomass for commercial energy production in ways that both are economically and environmentally sound. CCC plans to implement BCAP by approving the best-qualifying project proposals from project sponsors and then entering into contracts with individual producers in the approved project locations.

Under the National Environmental Policy Act (NEPA), the EIS process provides a means for the public to provide input on implementation alternatives and on environmental concerns. This notice informs the public of CCC's intention to prepare an EIS for BCAP.

Signed in Washington, DC, on September 24, 2008.

**Glen L. Keppy,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. E8-22990 Filed 9-30-08; 8:45 am]

BILLING CODE 3410-05-P

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

#### DEPARTMENT OF AGRICULTURE

##### Forest Service

[NV912-1640-PH-006F; 08-08807; TAS:14X1109]

**Notice of Public Meeting: Recreation Subcommittee of the Sierra Front-Northwestern Great Basin, Northeastern Great Basin, and Mojave-Southern Great Basin Resource Advisory Councils, Nevada**

**AGENCIES:** Bureau of Land Management, Interior and Forest Service, Agriculture.

**ACTION:** Notice of Recreation Advisory Subcommittee Meeting.

**SUMMARY:** In accordance with the Federal Lands Recreation Enhancement Act of 2004 (FLREA) (Pub. L. 108-447), the Recreation Subcommittee of the Bureau of Land Management's (BLM)

Nevada Resource Advisory Committees will hold a meeting to discuss fee proposals to increase fees at campgrounds managed by the Forest Service in the Ely area, increase fees at Red Rock Canyon National Conservation Area, and to initiate a meeting room reservation fee at the California National Historic Trail Interpretive Center managed by the BLM Nevada Elko District Office.

**DATES AND TIMES:** The Recreation Subcommittee will meet on Wed., Nov. 12, 2008, from 12:30 p.m. to 4:30 p.m. A general public comment period, where the public may submit oral or written comments to the Recreation Subcommittee will begin at 4 p.m. unless otherwise listed in the final meeting agenda.

**ADDRESSES:** Gold Coast Hotel Casino, 4000 W. Flamingo, Las Vegas, Nevada.

**FOR FURTHER INFORMATION CONTACT:** Barbara Keleher, Outdoor Recreation Planner, telephone (775) 861-6628, at the BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada.

**SUPPLEMENTARY INFORMATION:** FLREA directs the Secretaries of the Interior and Agriculture to establish Recreation Resource Advisory Committees to provide advice and recommendations on recreation fees and fee areas in each State or region for Federal recreational lands and waters managed by the BLM or Forest Service. Nevada's recreation subcommittee includes members of the three existing BLM RACs and has responsibilities pertaining to both BLM and Forest Service managed Federal lands and waters according to a national interagency agreement between the Forest Service and BLM. This subcommittee will recommend new amenity fees and fee change proposals to the respective RAC(s) for each geographic region.

All meetings are open to the public. A final agenda will be available at <http://www.blm.gov/nv/st/en.html>. A news release will be sent to local and regional media at least 14 days before the meeting. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish a hard copy of each agenda, should contact Barbara Keleher no later than 10 days prior to the meeting.

Dated: September 18, 2008.

**Ron Wenker,**

*BLM, Nevada State Director.*

Dated: September 18, 2008.

**Ed Monnig,**

*USFS, Supervisor, Humboldt-Toiyabe National Forest.*

[FR Doc. E8-23112 Filed 9-30-08; 8:45 am]

BILLING CODE 4310-HC-P

#### DEPARTMENT OF AGRICULTURE

##### Natural Resources Conservation Service

**New Creek Site 14 Rehabilitation Project, New Creek—Whites Run Subwatershed of the Potomac River Watershed, Grant County, WV**

**AGENCY:** Natural Resources Conservation Service.

**ACTION:** Notice of a Finding of No Significant Impact.

**SUMMARY:** Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the New Creek Site 14 Rehabilitation Project of the New Creek—Whites Run Subwatershed of the Potomac River Watershed, Grant County, West Virginia.

**FOR FURTHER INFORMATION CONTACT:** Kevin Wickey, State Conservationist, Natural Resources Conservation Service, 75 High Street, Room 301, Morgantown, WV 26505, Phone: 304-284-7540.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Kevin Wickey, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are to rehabilitate Site 14 to bring the site into compliance with current Natural Resources Conservation Service design criteria and performance standards. The planned works of improvement include: Raising the effective top of dam to prevent overtopping during the probable maximum precipitation (PMP) event; Installation of a new intake riser; Lining the principal spillway pipe; Installing



whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of burden of the proposed collection of information, including the validity of methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate, automated, electronic, mechanical or other technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

#### Summary of 2004 Comments

A previous notice requesting comments on this information collection request was published in the **Federal Register** on June 23, 2004 (69 FR 34990–34991). The 60-day comment period for the notice closed on August 23, 2004; 6 comments were received. The scope of the request for information collection approval has been narrowed to initially focus on information collected by the three service center agencies, the Farm Service Agency (FSA), the National Resources Conservation Service (NRCS), and Rural Development (RD). None of the comments addressed any issues related to information collection by FSA, NRCS, or RD.

Signed at Washington, DC on May 7, 2009.

Joe Leonard, Jr.,

Assistant Secretary for Civil Rights.

[FR Doc. E9–11109 Filed 5–12–09; 8:45 am]

BILLING CODE 3410–06–P

#### DEPARTMENT OF AGRICULTURE

##### Commodity Credit Corporation

##### Amended Notice of Intent To Prepare an Environmental Impact Statement for the Biomass Crop Assistance Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Commodity Credit Corporation (CCC) intends to prepare an Environmental Impact Statement (EIS) for the Biomass Crop Assistance Program (BCAP). BCAP is a new program authorized by the Food,

Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The EIS will assess the potential environmental impacts of alternatives for administration and implementation of BCAP. Through this notice and public meetings, CCC is requesting the public to provide comments and inputs on the preliminary proposed program alternatives and environmental concerns associated with the implementation of BCAP.

**DATES:** See the **SUPPLEMENTARY INFORMATION** section for dates of the six public meetings.

**Comments:** We will consider comments that we receive by June 12, 2009. We will consider comments submitted after that date, to the extent possible.

**ADDRESSES:** We invite you to submit comments and to participate in public meetings on the proposed alternatives related to BCAP. If you e-mail, fax, or mail your comments, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- Go through the established public comments Web site located at <http://public.geo-marine.com>.
- E-Mail: [bcapais@geo-marine.com](mailto:bcapais@geo-marine.com).
- Fax: (757) 873–3703.
- Mail: BCAP EIS c/o Geo-Marine, Inc., 2713 Magruder Boulevard, Suite D, Hampton, Virginia 23666.
- Hand Delivery or Courier: Deliver comments to the above address.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Comments may be inspected in the Office of the Director, CEPD, FSA, USDA, 1400 Independence Ave., SW., Room 4709 South Building, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

See the **SUPPLEMENTARY INFORMATION** section for addresses for the six public meetings.

**FOR FURTHER INFORMATION CONTACT:** Matthew T. Ponish, FSA National Environmental Compliance Manager at (202) 720–6853 or [matthew.ponish@wdc.usda.gov](mailto:matthew.ponish@wdc.usda.gov). Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:** BCAP is authorized by Title IX of the 2008 Farm Bill (Pub. L. 110–246). The 2008 Farm Bill amends Title IX of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171); specifically, for BCAP, the 2008 Farm Bill adds section 9011 (7 U.S.C. 8111) to Title IX. BCAP is intended to support the establishment and production of crops for conversion to bio-energy in project areas (locations) and to assist with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

As a new energy program, BCAP presents an opportunity to encourage landowners and operators to produce biomass for commercial energy production in ways that both are economically and environmentally sound. CCC plans to implement BCAP by approving the best-qualifying project proposals from project sponsors (producers or facilities) and then entering into contracts with individual producers in the approved project locations. BCAP is a CCC program administered by the Farm Service Agency (FSA) with the support of other Federal and local agencies.

Under the National Environmental Policy Act (NEPA), the EIS process provides a means for the public to provide input on program implementation alternatives and on environmental concerns. This notice informs the public of CCC's intention to prepare an EIS for BCAP. CCC initially solicited public input and comments on the proposed EIS for BCAP from the notice published in the **Federal Register** on October 1, 2008 (72 FR 5704–57047).

When we received comments and inputs from the public and through internal agency scoping, CCC developed the following alternatives for the BCAP analysis to be considered as part of the regulatory requirements under NEPA process:

(1) *No Action Alternative*—addresses the potential effects from not implementing BCAP.

(2) *Action Alternative 1*—addresses a targeted implementation of BCAP to specific areas or regions of the United States.

(3) *Action Alternative 2*—addresses a broad national implementation of BCAP.

The public meetings will be scoping meetings and will provide public input for the development of the alternatives.

Date	Time	Location information
May 28, 2009 .....	6:30 p.m. to 8:30 p.m. local time ..	Red Lion Hotel, 2300 Evergreen Park Drive, Olympia, Washington 98501, Ph: 360-252-0972, Fax: 360-753-9651.
June 2, 2009 .....	6:30 p.m. to 8:30 p.m. local time ..	Hilton Garden Inn, 9000 Interstate 40 West, Amarillo, Texas 79124, Ph: 806-355-4400, Fax: 806-355-4411.
June 4, 2009 .....	6:30 p.m. to 8:30 p.m. local time ..	Alexander Fulton Hotel & Convention Center, 701 4th Street, Alexandria, Louisiana 71301, Ph 318-442-9000.
June 8, 2009 .....	6:30 p.m. to 8:30 p.m. local time ..	Renaissance Savary Hotel, 401 Locust Street, Des Moines, Iowa 50309, Ph: 515-365-7232, Fax: 515-244-1228.
June 10, 2009 .....	6:30 p.m. to 8:30 p.m. local time ..	Hilton Garden Inn, 101 S. Front Street, Albany, Georgia 31701, Phone: 229-518-5003, Fax: 229-878-4862.
June 11, 2009 .....	6:30 p.m. to 8:30 p.m. local time ..	Hilton Garden Inn Syracuse, 6004 Fair Lakes Road, Syracuse, New York 13057, Ph: 315-431-4800, Fax: 315-431-4999.

Signed in Washington, DC on May 7, 2009.  
**Doug Caruso,**  
*Executive Vice President, Commodity Credit Corporation.*  
 [FR Doc. E9-11094 Filed 5-12-09; 8:45 am]  
 BILLING CODE 3410-05-P

#### DEPARTMENT OF AGRICULTURE

##### Forest Service

##### Cibola National Forest, Mount Taylor Ranger District, NM, La Jara Mesa Mine

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Intent to prepare an environmental impact statement.

**SUMMARY:** Laramide Resources (USA) Inc. has submitted a Plan of Operations (the Plan) proposing to develop and conduct underground uranium mining operations on their mining claims on La Jara Mesa on the Mount Taylor Ranger District of the Cibola National Forest. La Jara Mesa is located approximately 10 miles northeast of the town of Grants in Cibola County, New Mexico. The mine portal facilities would be located on claims controlled by the applicant on national forest lands at the base of the La Jara Mesa at an elevation of 7,300 feet in the NE¼, Section 15, T12N, R9W, NMPM. The mineralized zones that would be accessed from the portal are located in portions of Sections 1, 2, 11, 12, 13, and 14, T12N, R9W, NMPM. The escape shaft would be located on Forest Service administered lands on top of La Jara Mesa in Section 11, T12N, R9W, NMPM. The Cibola National Forest will prepare an environmental impact statement to assess the development of a uranium exploration and mining operation on the Mount Taylor Ranger District.

**DATES:** Comments concerning the scope of the analysis must be received by 30 days after the publication of the NOI. Public scoping open houses will be held during the scoping period in Grants and Gallup New Mexico. The schedule for the open houses is as follows:

Wednesday, May 20, 2009 in Grants, New Mexico, from 6 p.m. to 9 p.m. at the Cibola County Convention Center and Thursday, May 21, 2009 in Gallup, New Mexico from 6 p.m. to 9 p.m. at the Gallup Community Service Center. Times and locations of these meetings will be announced by public notice and will be available on the Cibola National Forest Web site. The draft environmental impact statement is expected before the end of 2009 and the final environmental impact statement and Record of Decision (ROD) is expected in spring/summer, 2010.

**ADDRESSES:** Send written comments to Rodney Byers, Minerals Program Manager, Cibola National Forest, 2113 Osuna Road, NE., Albuquerque, NM 87113.

**FOR FURTHER INFORMATION CONTACT:** For further information, mail correspondence to Rodney Byers, Minerals Program Manager, Cibola National Forest, 2113 Osuna Road, NE., Albuquerque, NM 87113.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

##### SUPPLEMENTARY INFORMATION:

##### Purpose and Need for Action

Laramide Resources (USA), Inc. has submitted a Plan of Operations for development of a uranium mine at the La Jara Mesa property. The purpose of the EIS is to evaluate the environmental impacts of the proposed Plan of Operations and determine whether to approve the Plan as proposed or to require additional mitigation measures to protect the environment (in accordance with Forest Service regulations for locatable minerals).

The need for action is to allow Laramide Resources (USA), Inc. to exercise their rights under U.S. mining laws. Laramide Resources (USA), Inc. has a right to develop and remove the mineral resources as set forth by the

General Mining Law of 1872 as amended. These laws provide that the public has a statutory right to conduct prospecting, exploration, development and production activities (1872 Mining Law and 1897 Organic Act), provided they are reasonably incident (1955 Multiple Use Mining Act and case law) to mining and comply with other Federal laws.

The Forest Service has the responsibility to protect surface resources. Mining regulations state that "operations shall be conducted so as, where feasible, to minimize adverse environmental effects on National Forest System surface resources (36 CFR 228.8)" provided such regulation does not endanger or materially interfere with prospecting, mining, or processing operations or reasonably incidental uses (1955 Multiple Use Mining Act and case law).

Laramide Resources (USA), Inc.'s need is to provide uranium ore for processing to meet national and international market demands for uranium on the open market. Such demand is created by a current need for uranium for nuclear power plant fuel to generate electricity or for commercial and other uses. The Forest Service has concluded that the underlying need for this mining activity is to provide uranium for U.S. and world markets.

##### Proposed Action

The proposed action is an underground uranium mine consisting of a 15-16 acre footprint on the surface which will be comprised of waste rock, temporary ore storage, a new water line and electrical transmission line following the existing private and Forest roads to the site. The mine will include two audit portals and, after active mining is initiated, a vertical escape shaft to the top of the mesa to provide air circulation and an escape route in the event of an accident. The shaft opening and supporting power and equipment will lie inside a fenced area of approximately 0.1 acre. Additional



**Appendix D:  
Notice of Availability**

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## Notices

Federal Register

Vol. 74, No. 152

Monday, August 10, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public; Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF AGRICULTURE

#### Commodity Credit Corporation

#### Notice of Availability of the Draft Programmatic Environmental Impact Statement for the Biomass Crop Assistance Program

**AGENCY:** Commodity Credit Corporation and Farm Service Agency, USDA.

**ACTION:** Notice of Availability (NOA) and request for comments.

**SUMMARY:** This notice announces that the Farm Service Agency (FSA), on behalf of the Commodity Credit Corporation (CCC), has completed a Draft Programmatic Environmental Impact Statement (PEIS) for the administration and implementation of the Biomass Crop Assistance Program (BCAP) enacted by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). FSA is requesting comments on the draft PEIS.

**DATES:** We will consider comments that we receive by September 24, 2009.

**ADDRESSES:** We invite you to submit comments on this Draft PEIS. In your comments, include the volume, date, and page number of this issue of the *Federal Register*. You may submit comments by any of the following methods:

- **E-Mail:** [BCAPEIS@geo-marine.com](mailto:BCAPEIS@geo-marine.com).
- **Online:** Go to <http://public.geo-marine.com>. Follow the online instructions for submitting comments.
- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** (757) 873-3703.
- **Mail:** BCAP PEIS, c/o Geo-marine Incorporated, 2713 Magruder Boulevard, Suite D, Hampton, VA 23666.
- **Hand Delivery or Courier:** Deliver comments to the above mail address.

Comments may be inspected in the Office of the Director, CEPD, FSA, USDA, 1400 Independence Ave., SW., Room 4709 South Building, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of the Draft PEIS is available through the FSA home page at <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecrc&topic=nep-cd> or at <http://public.geo-marine.com>.

#### FOR FURTHER INFORMATION CONTACT:

Matthew Ponish, National Environmental Compliance Manager, USDA, FSA, CEPD, Stop 0513, 1400 Independence Ave., SW., Washington, DC 20250-0513, (202) 720-6853, or e-mail: [Matthew.Ponish@wdc.usda.gov](mailto:Matthew.Ponish@wdc.usda.gov). Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

#### SUPPLEMENTARY INFORMATION:

BCAP is authorized by Title IX of the 2008 Farm Bill (Pub. L. 110-246). The 2008 Farm Bill amends Title IX of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171); specifically, for BCAP, the 2008 Farm Bill adds section 9011 (7 U.S.C. 8111). BCAP is intended to support the establishment and production of certain crops for conversion to bio-energy in project areas (locations) and to assist with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

As a new energy program, BCAP presents an opportunity to encourage landowners and operators to produce biomass for commercial energy production in ways that both are economically and environmentally sound. CCC plans to implement BCAP by approving the best-qualifying project proposals from project sponsors (producers or facilities) and then entering into contracts with individual producers in the approved project locations. BCAP is a CCC program administered by the FSA with the support of other Federal and local agencies.

Under the National Environmental Policy Act (NEPA), the EIS process provides a means for the public to provide input on program

implementation alternatives and on environmental concerns. CCC provided first notice of its intent (NOI) to prepare the proposed BCAP PEIS in the *Federal Register* on October 1, 2008 (73 FR 57047-57048). CCC provided an amended NOI to prepare the proposed BCAP PEIS in the *Federal Register* on May 13, 2009 (74 FR 22510-22511) and solicited public comment on the proposed EIS for BCAP. Six public scoping meetings were held in May and June 2009 to solicit comments for the development of alternatives and to identify environmental concerns.

FSA has considered comments gathered in the scoping process initiated with the October 1, 2008 NOI to develop the alternatives proposed for the administration and implementation of BCAP and to include in a Draft PEIS. The Draft PEIS assesses the potential environmental impacts associated with the following three alternatives:

- **No Action Alternative**—addresses the potential effects from not implementing BCAP.
- **Action Alternative 1**—addresses a targeted implementation of BCAP to specific areas or regions of the United States.
- **Action Alternative 2**—addresses a broad national implementation of BCAP.

The Draft PEIS also provides a means for the public to voice any suggestions on the program and any ideas for rulemaking. The Draft PEIS can be reviewed online at: <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecrc&topic=nep-cd> or at <http://public.geo-marine.com>.

The Draft PEIS was completed as required by NEPA (42 U.S.C. 4321-4347), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), and FSA's policy and procedures (7 CFR part 799).

Signed in Washington, DC on August 4, 2009.

**Jonathan Coppess,**

*Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.*

[FR Doc. E9-19064 Filed 8-7-09; 8:45 am]

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**Appendix E:  
Responses to Comments on the Draft PEIS**

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State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
New Mexico	Bryan	Bird	Other	Air Quality	<p><b>Wild Earth Guardians:</b> Burning woody material generates air pollution and greenhouse gases not to mention toxic air pollutants such as Mercury. Air pollution controls can reduce these emissions to meet national air quality standards or better so that burning trees for energy can be cleaner than coal or natural gas, but all energy production sources contribute to climate change and air pollution to some degree, often in production and maintenance of infrastructure, but ignoring these sources only solar and wind can be considered low to zero emissions.</p> <p>Moreover, carbon dioxide emissions from burning biomass crops to generate electricity escape all regulatory review and accountability. These emissions are not required to be reported to the U.S. EPA under its Clean Air Act accounting program via EPA's E-Grid data base. Nor are these carbon dioxide emissions covered by state "cap and trade" programs. This results in a massive loophole allowing biomass burning carbon dioxide emissions to escape regulatory accountability.</p> <p>Most state statutes, regulations, proposed regulations or policies focus on what constitutes "biomass" for renewable energy purposes and limit the discussion to the types of materials that can be used in a biomass facility to meet renewable portfolio standards or other goals. A few states also stipulate that biomass facilities need to comply with state air quality regulations, which is accomplished by getting an air quality permit (but no mention of a requirement that these facilities use low-emission technology).</p>	<p>This analysis considers greenhouse gas emissions in the production of bioenergy crops, as this is included within the purview of the proposed program. The analysis does not include an analysis of the burning of biomass materials to create bioenergy. The scope of the analysis is clearly limited to the establishment and production of dedicated bioenergy crops, not the actual production of bioenergy. Overall, the air quality analysis does not consider particulate matter or mercury. This analysis considers emissions associated with establishment of the crop to harvest and transport to the conversion facility. This has been clarified in Section 3.3.</p>
Virginia	John	Bradfield	Other	Air Quality	<p><b>Composite Panel Association:</b> The purpose of these comments is to reinforce the inherent environmental friendliness of composite panels, particularly in regards to Carbon Sequestration, Green House Gas (GHG) issues and global warming. The attached Life Cycle Inventory reports on</p>	<p>How carbon will be accounted for internationally is still being negotiated. If carbon is accounted for in terms of carbon stocks then credits are given when a stock increases and debits are given when a stock</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>particleboard and MDF production in North America provide the technical background on the negative environmental impact such an undesirable outcome would have. The impact can be summarized quite quickly and directly. When wood is burned it is a 'carbon neutral' event since the CO<sub>2</sub> is simply being recycled into the atmosphere. However, when CO<sub>2</sub> is sequestered in wood products it is a 'carbon negative' event.</p> <p>Here is a quick specific example. Using the LCI for MDF, note on page iv of the summary that each cubic meter of MDF produced sequesters enough carbon to offset 757 kg of CO<sub>2</sub>. Each cubic meter of MDF contains 659 kg of wood, on average, or .725 tons, in English units. Thus, for every ton of wood used, 1,044 kg or about 1.3 tons of carbon dioxide is removed from the atmosphere. Obviously, that CO<sub>2</sub> is returned to the atmosphere if the wood were used as a fuel rather than to make MDF.</p> <p>This is the point CPA would like to make regarding carelessness when the list of eligible materials is created. As of July 14, 2009, sawdust and any other industrial wood residue, the primary raw material for the production of particleboard, MDF and hardboard, is identified as an eligible material for subsidy under BCAP. If that subsidy encourages the burning of wood that would have otherwise been used for composites, there is a negative GHG impact that is not noted in the draft EIS. This needs to be corrected.</p> <p>CPA understands that it is not the intent of BCAP to encourage the use of industrial wood residuals, normally the province of composites, for use as fuels instead. However, in addition to the economic/business impact, it is important to note the impact on the environment if BCAP were to have this kind of unintended consequence.</p>	<p>decreases (i.e., burning).</p> <p>With respect to renewable fuels the net difference is zero, with the exception of the energy used in conversion processes. While the question/comment is an interesting one, it is outside the scope of this analysis. The purpose of this analysis to quantify the energy and greenhouse gas emissions associated with the production of biofuel crops. It is not the goal to negotiate how those greenhouse gas emissions will be considered in an accounting framework.</p>



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
District of Columbia	Susan	Bromm	Federal Agency	Air Quality	<p><b>Environmental Protection Agency:</b> The draft EIS states that the primary impact to air quality will be a reduction of green house gas emissions. It appears the draft EIS did not consider other emissions such as nitrous oxide (NO<sub>x</sub>) that result from increased fertilizer application to additional biomass crops or, carbon dioxide (CO<sub>2</sub>) that result from increased logistical movement related to the production and/or transport of biomass fuels. EPA recommends that the final EIS include the quantification and evaluation of NO<sub>x</sub> emissions that result from sequestering impacts associated with conversion between current corn-type crops and second generation crops and CO<sub>2</sub> that results from increased logistical activities related to the production and or transport of biomass fuels from biomass conversion facilities.</p>	<p>This analysis includes N<sub>2</sub>O from fertilizer use and the change in N<sub>2</sub>O emissions when moving between different cropping systems (e.g., corn and switchgrass). Energy and CO<sub>2</sub> from logistical operations and transportation to the conversion facilities is also accounted for as are the average haul distances. Sections 3.3 and 4.3 have been edited to reflect the inclusion of these emissions in the BCAP Final PEIS.</p>
California	Brendan	Cummings	Other	Air Quality	<p><b>Center for Biological Diversity:</b> While the deficiencies of the draft PEIS are many, they result in two primary impacts that are of concerns to the Center. First, by asserting as a blanket principle that biomass utilization is carbon-neutral, the draft PEIS fails to analyze the likely significant short and long-term adverse impacts to CO<sub>2</sub> reduction targets and climate change that will result from the substantial actual CO<sub>2</sub> emissions associated with biomass burning.</p> <p>Second, by failing to distinguish in any meaningful manner biomass produced from short-rotation crops grown on existing agricultural land, from woody biomass harvested from public and private forests, the draft PEIS ignores the significantly different environmental impacts of increased utilization of these two broad classes of biomass.</p> <p>The net result of these two analytical errors is that the proposed action will likely lead to significant increases in CO<sub>2</sub> emissions from the smokestacks of biomass energy facilities, combined with increased logging of forests for biomass and</p>	<p>Direct and indirect emissions associated with biomass production from the field to a biomass conversion facility are included in this analysis. This has been clarified in Section 3.3. While the use of renewable energy nationally and internationally continues to be recognized as carbon neutral, emissions associated with the production, harvest, and transport are considered and included the BCAP Final PEIS.</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					consequent reduction of forest carbon stores, without the effects of these activities ever being properly and fully analyzed in the PEIS or any subsequent NEPA document. - - Failure to disclose and analyze the effects of the proposed action in the context of a changing climate; and failure to disclose and analyze the carbon dioxide and other greenhouse emissions associated with biomass utilization; Failure to disclose and analyze the emissions and other direct and indirect impacts associated with the full lifecycle of different forms of biomass utilization;	
Oregon	Doug	Heiken	Other	Air Quality	<b>Oregon Wild:</b> When biofuels involves harvest of forest and crops there is a risk that the net carbon benefits will be trumped by the carbon emissions related to biomass tending, harvest, processing, transport etc. The NEPA analysis must conduct a lifecycle analysis to show whether the biofuels each discrete biofuel program will produce net benefits in terms of greenhouse gas emissions.	The purpose of the BCAP is to support the establishment and production of dedicated energy crops not the production of a fuel. Therefore, the activities associated with BCAP are agricultural in nature so this analysis considers only emissions from the production of crops and end at the conversion facility door. A life cycle analysis was not done for the BCAP PEIS because (1) there is currently no set standard for LCA in practice and (2) the limited time available to meet the Presidential Directive did not allow for the development of a new methodology or to wait for the EPA's methodology to be considered the benchmark for this analysis. NEPA requires the best available data to be used at the time to make a decision, at this time the multiple methodologies, the discussion of indirect land use change, and the uncertainty over specific crop components, are such that it would require a great deal of new methodologies to be developed.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Oregon	Tim	Hermach	Other	Air Quality	<p><b>Native Forest Council:</b> The action alternatives proposed by this DPEIS for the removal and burning of forest biomass are based on fraudulent claims and dishonest industry misinformation and lies. This DPEIS claims that burning forest biomass is carbon neutral and will significantly reduce greenhouse gasses. However, based on even the available industry data, forest biomass not only produces 50% more carbon dioxide than burning coal, it also produces more nitrous oxide, VOC's and particulates than coal while far less efficient.</p>	<p>Use of biomass as an energy source is considered carbon neutral because the carbon taken up by the plant is emitted during the combustion process and then taken back up when the plant regrows. This happens annually with annual crops and on multi-year cycles (5-10 years) for short-rotation woody crops. This can be demonstrated simply through basic biology textbooks and it is accepted by all countries involved in the United Nations Framework Convention on Climate Change. To state that forest biomass produces more carbon dioxide than burning coal is only partially correct. Because coal has higher energy content than wood, you will burn less coal and emit less CO2 at the point of combustion than wood per heat unit. However, that is only half the story. When you consider the full carbon cycle, wood continues to be a net zero emitter. Particulate emissions were outside the scope and not considered in this analysis.</p>
Minnesota	Jim	Kleinschmit	Other	Air Quality	<p><b>Institute for Agriculture and Trade Policy:</b> Page 187 Air Quality. This analyses of GHG emissions seems extremely flawed when it assumes that Alternative 2 would rely on crop residue removal and conversion of pasture and hayland to energy crops, and therefore increase emissions. BCAP must provide guidance and limitations away from those biomass types of scenarios, and instead focus on establishing perennials on degraded croplands, thereby dramatically reducing GHG emissions, and hopefully even achieving zero carbon due to high levels of carbon sequestration. FSA must find a simple way to do an adequate lifecycle analysis of GHG</p>	<p>Comment noted and will be taken under consideration during the rulemaking process for the entire BCAP.</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					emissions for each BCAP project selected.	
Washington	Nathaniel	Lawrence	Other	Air Quality	<p><b>National Resource Defense Council:</b> Similarly assumed away are the highly relevant carbon emissions of energy production based on biofuels. Wood-to-electricity facilities, for instance, immediately turn sequestered carbon into atmospheric carbon, only some of which is recaptured – and only over time. The average loss of sequestered carbon will make at least some biomass utilization a net emitter of carbon dioxide over relevant time horizons and beyond. The DPEIS simply acts as though these impacts will not occur.</p>	With respect to annual crops, the complete carbon cycle occurs relatively quickly (1-2 years, depending on rotation). With respect to perennial woody crops, the commenter is correct in that emitted carbon from harvested crops may take an entire rotation period (5-10 years) to sequester the carbon once emitted. The modeling used in this PEIS considered only an annual time step.
Tennessee	Davis	Mounger	Other	Air Quality	<p><b>Heartwood Inc:</b> Air Quality-Existing Conditions 3.3. Current management of agriculture and forest lands represents baseline conditions. Biomass projects only make sense when the gross carbon dioxide, nitrous oxide and other air pollutants and greenhouse gas emissions relative to electricity generation are reduced.</p> <p>Burning biomass for energy emits large amounts of air pollution and endangers human health. Biomass incinerators produce hundreds of tons of nitrogen oxides and volatile organic compounds, two ingredients of the ground-level ozone dangerous to human respiratory health and the environment (Environmental Protection Agency, <a href="http://www.epa.gov/particles/">www.epa.gov/particles/</a>).</p> <p>Biomass burning also produces tons of fine particulate matter, a pollutant associated with asthma, heart disease and cancer for which no safe level is known. Biomass emits as much matter per KWH as coal, and more than either natural gas or fuel oil. Particulates are considered more responsible for global warming than CO2 alone. This is bad for the climate and really</p>	The purpose of the BCAP is to support the establishment and production of dedicated energy crops not the production of a fuel. Therefore, the activities associated with BCAP are agricultural in nature so this analysis considers only emissions from the production of crops and end at the conversion facility door. End use of the crop (i.e., conversion to ethanol or other energy sources) is not considered here. This is clarified in Section 3.3.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>bad for humans, animals and all things that like to breathe.</p> <p>Biomass burning emits 1.5 times as much carbon monoxide (considered a toxic air pollutant) and 1.5 times as much carbon dioxide (the most important and damaging of greenhouse gasses) as coal.</p> <p>Carbon in crops...is...considered to have zero carbon dioxide emissions. Burning wood releases at least as much carbon dioxide and particulates as burning coal. The argument that wood is carbon neutral because the carbon dioxide released will be used to grow new trees is fallacious because it assumes that new trees grow at the same rate as they are being cut and burned, which will not be the case if the many biomass power generators that are currently planned go into operation</p> <p>Forest products used for bioenergy purposed are considered to have a similar cycle...carbon dioxide taken up and emitted by the growth of...forest biomass is hereby considered net zero and is not further considered. We submit that this is an erroneous and arbitrary assumption. The use of biomass incineration is a far cry from being “carbon neutral.” In addition to increasing greenhouse gasses, the carbon released takes decades to re-sequester, a fact recognized by the Intergovernmental Panel on Climate Change (IPCC, 2008). Young trees that grow back after logging sequester just a fraction of the carbon that’s been removed and even after 25 years after cutting, new growth on a site is less than half of what was removed (Hubbard Brook Long Term Ecological Research, <a href="http://www.hubbardbrook.org">www.hubbardbrook.org</a>).</p>	
Delaware	Alan	Muller	Other	Air Quality	<p><b>Green Delaware:</b> 4. “ ... the primary purpose of an environmental impact statement (EIS) is to “provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable</p>	This scope of this analysis focuses solely on greenhouse gas emissions from the production of the crop to the conversion facility since the BCAP is intended to

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.” (page 1.1). Table ES-1 is described as a summary of the “environmental consequences.” Yet this Table, and in fact the entire PEIS, makes no mention of, for example, the air emissions associated with the proposed program in increased biomass burning. The present draft PEIS is neither “full” nor “fair” and needs major revisions prior to another cycle of public review.	support the establishment. End use of the crop (i.e., conversion to ethanol) is not considered here. This is clarified in Section 3.3.
District of Columbia	Paul	Noe	Other	Air Quality	<b>American Forest and Paper Association:</b> The discussion of air quality impacts, if accurate, is very problematic. The PEIS states that soil carbon in Action Alternative 2 could be “3.4 percent to as high as 22.6 percent” (BCAP PEIS 4—81). The PEIS states once again, however, that “(t)his is primarily due to utilization of acreage for crop residue removal and conversion of previous hayland and pasture to bioenergy crops” (BCAP PEIS p. 4—81). We note once again that the purpose and need statement for the PEIS states that the purpose is for implementation of the project areas, not the matching payments, portion of the program. This is another example of the confusion created by merging discussion of the matching payments with the project areas, particularly as the description of the matching payments portion of BCAP which can be gleaned from the PEIS is not entirely consistent with the implementation of the matching payments program that is ongoing pursuant to the BCAP NOFA.	This document considers greenhouse gas emissions in the production of bioenergy crops (e.g. switchgrass, poplar, etc) and the emissions associated with establishment of the crop to harvest and transport to the conversion facility. This has been clarified in Section 3.3 The PEIS has been revised to clarify that this analysis focuses solely on the potential impacts associated with the establishment of the Project Areas and Annual Payments Program component of BCAP (see Section 1.2).
	Thomas	Robb	Other	Air Quality	<b>Abengoa Bioenergy:</b> Air Quality  Wind erosion is a serious concern – we would remind you that this is the area where the Dust Bowl of the 1930’s occurred. Today, farmers practice improved farming techniques and wind erosion is minimized. We expect to keep wind erosion to a minimum while producing an energy crop. There are regions in this area during the 2008 crop year that had less moisture than	Changes in soil carbon and erosion following a change from row cropping to perennial crops are considered in this analysis. Please refer to Section 4.4.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					during the most severe of the dust bowl years, yet wind erosion was significantly less than during the dust bowl. Wind erosion, however, still occurs, especially in the dry land cropping situations where a low rainfall growing season can leave land with minimal cover and highly subject to wind erosion. While the EIS says that on a national level positive impact are minimal, on the local level, switching to perennial crop helps keep the soil in place.	
Massachusetts	Margaret	Sheehan	Other	Air Quality	<p><b>Massachusetts Forest Watch:</b> The DPEIS is inadequate because it fails to assess the damage to the environment caused by the burning of the biomass crops to generate electricity. This includes air pollution, water pollution, the impacts of water withdrawals for power plant cooling, and the loss of carbon sequestration capacity of forests.</p> <p>Moreover, carbon dioxide emissions from burning biomass crops to generate electricity escape all regulatory review and accountability. These emissions are not required to be reported to the U.S. EPA under its Clean Air Act accounting program via EPA's E-Grid data base. Nor are these carbon dioxide emissions covered by state "cap and trade" programs. This results in a massive loophole allowing biomass burning carbon dioxide emissions to escape regulatory accountability. Carbon dioxide is the most prevalent greenhouse gas.</p> <p>1. The biomass burning CO2 emissions loophole</p> <p>Natural Resources Defense Council climate scientist David Hawkins testified before the Senate Environment and Public Works Committee on July 7, 2009, that the proposed federal cap and trade bill contains "a large biomass loophole that ignores the global warming emissions related to biomass production and combustion." This loophole allows these power</p>	How carbon will be accounted for internationally is still being negotiated. If carbon is accounted for in terms of carbon stocks then credits are given when a stock increases and debits are given when a stock decreases (i.e. burning). With respect to renewable fuels the net difference is zero, with the exception of the energy used in conversion processes. While the question/comment is an interesting one, it is outside the scope of this analysis. The purpose of this analysis to quantify the energy and greenhouse gas emissions associated with the establishment production of dedicated energy crops. It is not the goal to negotiate how those greenhouse gas emissions will be considered in an accounting framework.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>plants to generate unlimited and uncontrolled amounts of CO<sub>2</sub>.</p> <p>According to U.S. Department of Energy figures, by 2020 biomass burning will generate 700,000,000 million tons of CO<sub>2</sub> per year.<sup>1</sup> Classifying biomass burning as a “renewable energy source” means that it is promoted and subsidized by the USDA and other federal agencies even though the CO<sub>2</sub> emissions emitted from the smokestacks of biomass burning power plants accelerates climate change.</p>	
Massachusetts	Margaret	Sheehan	Other	Air Quality	<p><b>Massachusetts Forest Watch :</b></p> <p>2. The air pollution impacts of biomass burning are worse than burning coal. The burning of biomass crops that will be harvested under the PDEIS emits 1.5 times the carbon dioxide (CO<sub>2</sub>), 1.5 times the carbon monoxide (CO, a toxic air pollutant), and as much particulate matter as burning coal. 2 The latter toxic emissions cause cancer, asthma and respiratory ailments. Incineration and biomass burning to generate renewable electricity also generates toxic ash, drains rivers through the evaporation of large volumes of cooling water, often discharges heated and polluted effluent to rivers, and when wood is used, burns forests thereby decreasing the capacity of the ecosystem to sequester carbon.</p>	<p>This scope of this analysis focuses solely on greenhouse gas emissions from the production of the crop to the conversion facility. End use of the crop (i.e., conversion to ethanol) is not considered here. This is clarified in Section 3.3.</p>
Massachusetts	Margaret	Sheehan	Other	Air Quality	<p><b>Massachusetts Forest Watch :</b></p> <p>3. The DPEIS ignores the role of the Federal forests that will be logged under the DPEIS as critical “carbon sinks” for their carbon sequestration value.</p>	<p>This analysis does not consider, nor estimate, the loss of federal forests for bioenergy crops. This analysis indicates a move from pasture and grasslands to perennial bioenergy crops. This is addressed in other Sections of the PEIS.</p>



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Massachusetts	Margaret	Sheehan	Other	Air Quality	<p><b>Massachusetts Forest Watch:</b></p> <p>4. Biomass burning is not carbon neutral. Burning woody biomass to generate “renewable electricity” adds greenhouse gases to the atmosphere in the critical near-term period. This CO2 will not be reabsorbed before the planet reaches its “tipping point.” According to U.S. EPA, the CO2 emitted by burning biomass and other materials to generate renewable electricity will not be reabsorbed for hundreds to thousands of years. The U.S. EPA’s April 2009 proposed endangerment finding puts the matter starkly: “... for a given amount of CO2 released today, about half will be taken up by the oceans and terrestrial vegetation over the next 30 years, a further 30 percent...over a few centuries, and the remaining 20 percent...will take many thousands of years to remove from the atmosphere.” 74 Fed. Reg. 18899, 4/24/2009. The large volumes of CO2 emissions that will be emitted by burning the woody biomass harvested by programs under the DPEIS to generate so called “renewable electricity” will not be reabsorbed in time to “neutralize” this CO2. This is true – regardless of the number of trees planted to replace the wood that is burned. There is a difference in CO2 absorption capacity between old forests and new growth trees. In an article entitled “The Giving Trees,” Spring 2008 edition of NRDC publication ONEARTH, the author writes: “It turns out forests hundreds of years old can continue to actively absorb carbon, holding great quantities in storage. Resprouting clear-cuts, on the other hand, often emit carbon for years, despite the rapid growth rate of young trees.”</p>	The quote provided from EPA's endangerment finding is specific to fossil fuel emissions and is based on the lifetime of CO2 in the atmosphere.
Massachusetts	Margaret	Sheehan	Other	Air Quality	<p><b>Massachusetts Forest Watch:</b></p> <p>4. The USDA’s funding and technical support for and promotion of the incineration of woody biomass as a source of renewable energy is tantamount to perpetuating a fraud on the</p>	This scope of this analysis focuses solely on greenhouse gas emissions from the production of the crop to the conversion facility. End use of the crop (i.e., conversion to ethanol) is not considered here. This is

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					American people.  There is no credible scientific data to support the assertion that burning wood to generate electricity is “carbon neutral” and an antidote to the global warming crisis. The DPEIS is fundamentally flawed in its failure to address all of the impacts associated with burning wood to generate electricity.	clarified in Section 3.3.
District of Columbia	Juliet	Bochicchio	Federal Agency/ USDA	Air Quality/ Cumulative Impacts	<p><b>U.S. Department of Agriculture:</b></p> <p>2- Cumulative Impacts Assessment- 5.3.3 Air Quality, Page 5-7, Paragraph 6 - "It is estimated that there would be benefits from the conversion of lands associated with total carbon flux and overall energy use, but there would also be negative effects from the greater use of residues, which would generate additional GHG emissions and reduce soil carbon sequestration. In the longer term, as more acreage is planted to dedicated energy crops and regionally competitive crops, there would be some off-set from the anticipated soil carbon losses associated with residue removal and use." Same comment basically, as Comment 1 - Are the cumulative impacts from this additional GHG emissions and soil carbon losses expected to be a significant adverse affect and if so does the offset successfully mitigate for these impacts?</p>	<p>At the field level, residue removal is assumed to occur at the erosion neutral level. So fields in which residue harvesting would be occurring are guaranteed to reduce erosion, but would reduce their ability to sequester carbon. For the removals to also be carbon neutral, the residues left on the ground should be enough as to add organic matter to the soil.</p> <p>This means that at the field level, in the absence of carbon neutral removal limits, GHG are likely to increase and some level of soil carbon losses would occur; both compared to the no action scenario. The size of the loss would depend on the carbon and soil status of the soils, the removal rates, and the practices used to remove the residues.</p> <p>At the regional or national aggregate levels, offsets provided by energy dedicate crops and changes in tillage practices will mitigate the impacts above mentioned.</p>
District of Columbia	Juliet	Bochicchio	Federal Agency/ USDA	Air Quality/ Soil Resources/ or Water Quality	<p><b>U.S. Department of Agriculture:</b></p> <p>3) Affected Environment - 3.3.2 Existing Conditions, Page 3-26, Paragraph 2-" .. Indirect land-use change associated with</p>	This analysis does not account for changes in carbon stocks following a change from forest to croplands. This analysis does include carbon dynamics associated with the use of forest residues. Changes in net



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				Sections	the planting and harvesting of bioenergy crops". Alternative 2 includes the conversion of forest land to BCAP cropland, but this conversion is not accounted for in the Air Quality/ Soil Resources/ or Water Quality Sections. Is this conversion of forestland to cropland, or just harvesting of forest residues? How much forest land could potentially be converted under Alternative 2? If significant, you may need to address the potential for significant soil erosion into water bodies and decrease in air quality resulting from conversion of forest land to cropland. Forest land would not be converted in non-attainment Air Quality Control Regions, correct?	carbon emissions associated with forest conversion will depend largely on the end-use of the removed forest wood.
District of Columbia	Juliet	Bochicchio	Federal Agency/ USDA	Air Quality/Soil Resources	<p><b>U.S. Department of Agriculture:</b></p> <p>1- Environmental Consequences- 4.3.4 Action Alternative 2, Page 4-81, Paragraph 4 "Implementing Alternative 2 would result in a decline in soil carbon ranging from 3.4 percent to as high as 22.6 percent based on a national broad-scale adoption of BCAP. These changes would be locally significant and could create significant national effects as well. This is primarily due to utilization of acreage for crop residue removal and conversion of previous hayland and pasture to bioenergy crops." Does the PEIS indicate whether not this decline in soil carbon could pose a significant adverse affect to air quality/soil resources etc.? If there is a potential significant adverse affect it should be addressed in the 4.3.4.3 Mitigation Measures section.</p>	The data on Table 4 3-3 mistakenly does not account for the soil carbon gains of energy dedicated crops. Regionally, the decline in soil carbon would primarily occur in areas were corn or wheat residues have been removed. Losses of soil productivity could occur in those areas. As a remedial or preventive measure residue removal should be constrained at the carbon neutral level.
Delaware	Alan	Muller	Other	Air Quality/Soil Resources	<p><b>Green Delaware:</b> 1. We regard "biomass" burning for electricity generation as a fundamentally undesirable activity likely to lead to forest destruction, soil depletion, deterioration in air quality with resulting health impacts, and increases in greenhouse gas emissions. Therefore, the USDA should seek</p>	Comment noted and will be taken under consideration during the rulemaking process for the entire BCAP.

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					<p>to minimize rather than promote this activity.</p> <p>The size and potential scope of BCAP mean that very serious impacts and unintended consequences are possible, including negative impacts on air quality, water quality, soil quality, wildlife, commodity prices, environmental justice, forests, &amp; etc. Thus, compliance with the letter and intent of the National Environmental Policy Act is essential. The corn ethanol industry provides an illustrative example of what may happen when environmental review of adequate scope is not carried out.</p> <p>Because of the low thermal efficiency of “biomass” combustion and the design and scale of “conversion” facilities, it is probable that in most cases the direct carbon emissions of such combustion will be higher than that of the fuels they are replacing. Additional carbon-equivalent emissions will result from land disturbance and conversion, increased use of chemical fertilizers and pesticides, etc. Some of these issues are mentioned in the present draft PEIS but they are not properly evaluated.</p> <p>19. To ensure that the BCAP does not have the perverse effect of increasing carbon-equivalent emissions, the program overall, Project Area design, and individual projects/contracts should each be evaluated to ensure that carbon-equivalent emissions impacts are favorable. This evaluation should include consideration of fuels displaced, if any, alternatives, and increased fuel and chemical usage, if any.</p> <p>20. It is also likely, based on published emission factors and experience with existing “biomass” burners, that emissions of health-damaging regulated air pollutants would in some cases be higher with biomass fuels than the fuels they are replacing. This should be evaluated on an individual project basis. It is not acceptable to “cherry pick” one pollutant, such as sulfur dioxide, and ignore others. Each regulated air pollutant must</p>	

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					<p>be considered and compared individually. If any are higher, the project should not be acceptable for BCAP funding.</p> <p>22. We incorporate by reference a Letter from Ellen E. Moyer dated September 23, 2009, which further describes the relationship between “biomass” burning and carbon-equivalent emissions. This letter has been separately filed as a public comment</p>	
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Air Quality/ Soil Resources/ Water Quality/ and Recreation Resources	<p><b>U.S. Department of the Interior:</b></p> <p>Pages ES-9 through ES-12, Table ES-1 - Alternative 2</p> <p>The Air Quality, Soil Resources, Water Quality and Quantity, and Recreation Resources sections of Table ES-1 do not directly address the potential conversion of Non-agricultural areas to biomass crops under Alternative 2. Since the amount and type of land to be converted is unknown, the determination in the Draft PEIS that impacts to these resources will not be significant appears premature .</p>	Non-agricultural lands are for Alternative 2 is defined as non-industrial private forest land (NIPFL) that could be planted to herbaceous crop species thereby utilizing standard agricultural practices rather than forestry practices to produce a crop. The potential impacts associated with conversion of these lands to dedicated energy crops have been analyzed in the BCAP Final PEIS and determined to be of low probability when compared to conversion of agricultural lands into dedicated energy crops. The economic models utilized for this analysis assumed that non-agricultural lands would not be cost-effectively converted given the lack of infrastructure to those non-agricultural lands in comparison to agricultural lands that could be cost-effectively converted. The overall probability of the conversion of non-agricultural lands would be low given the timeframe and scope of BCAP.
District of Columbia	Juliet	Bochicchio	Federal Agency/ USDA	Biological Resources	<p><b>U.S. Department of Agriculture:</b></p> <p>4) Executive Summary - ES-6 through ES-8 - Alternatives 1 and 2 - Biological Resources (Vegetation and Wildlife) - You may want to provide information on how the following</p>	Comment noted. The mitigation section has been expanded to include these suggestions. This PEIS discusses the issues related to a regional spatial scale, but specific mitigation measures and methodologies are better discussed during



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					conditions would be implemented in the field, in order to reduce impact to wildlife. 1) initiate activities at the center of the field to allow for escape to either side, and following the outer most tracks of the previous pass. 2) establishment and harvest of feedstock does not occur during the Primary Nesting Season (PNS) 3) activities are not conducted during periods of highest florescence (flowers in bloom). 4) established provisions, standards, and guidelines are followed and the Conservation Plan is adapted to resource conditions. I couldn't find that in the PEIS document, but was wondering if that would be made a condition.	the site-specific level.
District of Columbia	Matt	Hogan	Other	Biological Resources	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>2) PEIS identifies there is no impact of converting non-cropland under alternative 2. There are no specific references for this assumption, and the authors simply refer to the alternative 1 analysis for converting croplands to biomass production. Converting noncropland to biomass production will have much larger ecological impacts than converting existing agricultural croplands.</p> <p>a. The environmental impact of converting existing forestland and grassland to a monoculture crop of woody or herbaceous species will have negative impacts on biodiversity, wildlife, and on at-risk and Threatened or Endangered species that use those forest or grasslands.</p> <p>b. Converting forest to a short-duration biomass crop will have negative impacts for wildlife, as will converting diverse grasslands to monoculture grasses for biomass. Existing literature only consistently shows a positive impact for wildlife when existing cropland is converted to the biomass crop (for both forests and grasslands). The assumption that converting existing forests or grasslands to a biomass crop is the same as converting cropland to a biomass crop in this document is not</p>	Comment noted. The effect determination on wildlife and other biological resources under Alternative 2 has been re-evaluated and determined to be potentially significant. The change in effect-determination has been appropriately expressed in the document.

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					<p>supported by scientific literature, or common ecological knowledge.</p> <p>c. If alternative 2 is a 33 million acre program, it will surely have a significant environmental impact. The potential conversion of existing forest and grassland habitats equal to the acreage currently in the Conservation Reserve Program will have potential population level impacts on grassland and forest birds. Similar to the CRP, it would be logical to expect that enrollment in BCAP will naturally be focused in certain states or regions, and the potential conversion of millions of acres of grassland or forest to new biomass crops in an ecoregion could have devastating impacts on wildlife and biodiversity.</p> <p>d. The negative impacts of conversions of native habitats to biofuels crops under BCAP under Alternative 2 are sorely understated in this document. The direct initial impact of conversion and the loss of diversity and wildlife habitat greatly exceed any potential benefits that the planted biomass crops will have. Again, the only clear benefits in the literature of biomass crops are in comparison to croplands, so the only way that conversion provides benefits to wildlife is if croplands are converted to biomass crops. The alternative 2 discussions of this issue attempt to reference alternative 1, which is incorrect because alternative 1 only allows biomass to be grown on existing agricultural croplands and on limited acreages within any county. One case is the identification of potentially extensive conversions of native shrublands and savannah (e.g Sec 4.2.3.1 on page 4-36); the conversions of those systems to new biomass crops will result in a large net loss of biodiversity, as grassland monocultures will not adequately address the habitat needs of a wildlife and insect species that have evolved with these grassland and woody systems.</p> <p>e. In section 3.2.1 on page 3-8 the document identifies the diversity of resources needed to maintain healthy wildlife</p>	

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					species and ecosystems, yet the remainder of the document assumes that biomass monocultures will generally be good for wildlife. That is tenuous at best, as initial studies in Iowa have indicated that on switchgrass fields, nesting success was lower on parts of fields harvested for biomass (Best and Murray, 2005). It was interesting to note that only the earlier publication (Murray and Best, 2003) was cited in this analysis. Reproductive success is a much better measure of habitat quality than simple use. This is one of many examples of seemingly “cherrypicking” of existing scientific literature where only the examples supporting the desired conclusion were cited in the literature and overwhelming preponderance of evidence against conversion of existing habitat appears to be ignored.	
Minnesota	Jim	Kleinschmit	Other	Biological Resources	<b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> Page 177 Genetically Engineered Organisms. Because the EIS finds that each site using genetically engineered organisms will require site-specific review and extensive research and delays, we recommend that BCAP not cover such feedstocks at all, especially considering that most proposed biomass crops under consideration for production are already non-GMO.	Eligible Crops under BCAP exclude any plant that is considered invasive or noxious or has the potential to become invasive or noxious on a regional or state level. The discussions of biological resources affected environment (3.2) and effects (4.2) including the no action alternative have been revised and expanded to address “competitive traits”.
Washington	Nathaniel	Lawrence	Other	Biological Resources	<b>NATIONAL RESOURCE DEFENSE COUNCIL:</b> Instead, the DPEIS tends to ignore or downplay impacts, without investigating them or the asserted basis for non-concern. For instance, it asserts without elaboration that “[a]s stated in the discussion of the direct effects of Action Alternative 1 on the fish are not expected to reduce their population densities or richness at the regional scale from the conversion of croplands and areas of marginal habitat quality into BCAP.” Id., p. 4-68. Scientific reviews are cited, if at all, haphazardly and without integration into a useable effects analysis, as with this isolated note: “[o]f interest is a study by Sample et al. (1998) in	Comment noted. The effect-determination on wildlife and biological resources under Alternative 2 has been re-evaluated and determined to be potentially significant. The change in effect determination has been appropriately expressed in the document.



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					Wisconsin, in which they observed that for 25 grassland bird species of concern, both species richness and density were noticeably higher in harvested areas of switchgrass versus unharvested areas." Id., p. 4-53.	
Washington	Nathaniel	Lawrence	Other	Biological Resources	<p><b>NATIONAL RESOURCE DEFENSE COUNCIL:</b> In several central regards, the DPEIS omits or dismisses classes of potentially negative impact based on obviously faulty or unsubstantiated assumptions. For example, repeatedly it presumes that land put into biomass rotation will have previously been cultivated cropland. See, e.g., id.,</p> <p>p. 4-51 ("[a] principal assumption of the analysis is that because the action areas are cropland prior to conversion to a biofuel crop ... the net result is positive ...."). In fact, the land utilized for new biomass production could be fallow or come from conservation status, including Conservation Reserve and/or Wetlands Reserve Programs. Nor is it justified to presume that biomass culture will all be switchgrass instead of some more harmful alternative. Similarly, the assumption is both unexamined and unjustified that compliance with a Conservation Plan designed by the Natural Resources Conservation Service will eliminate environmental concerns.</p>	Comment noted. Eligible land for BCAP project areas would not include Federal or state-owned land; land that is native sod; or land enrolled in the CRP/Wetlands Reserve/Grassland Reserve Programs. Further, "Conservation Plans" have been expanded to include Forest Stewardship Plans or equivalent. In the event that listed species or critical habitat are present, all BCAP eligible project areas must enter into Section 7 consultation with USFWS prior to acceptance in the BCAP program. Based on the stage-based approach to NEPA described in the Council on Environmental Quality's (CEQ) Regulations implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR 1508.28) known as "tiering", specific consultation will be addressed at a site-specific evaluation level. The Section 3 on wildlife has been expanded to include a general statement regarding the presence of rare, threatened, or endangered and non-game species.
Tennessee	Davis	Mounger	Other	Biological Resources	<p><b>Heartwood, Inc:</b> Environmental Consequences – Genetically Engineered Organisms: 4.73 The resulting GE organisms are not necessarily plant pests, however, the review process for demonstrating that they are not plant pests has not been completed. (APHIS 2006). We submit that, because GE organisms are not native species and exhibit all of the intrusive, characteristics common to invasive species with the</p>	Eligible Crops under BCAP exclude any plant that is considered invasive or noxious or has the potential to become invasive or noxious on a regional or state level. The discussions of biological resources affected environment (3.2) and effects (4.2) including the no action alternative have been revised and expanded to address "competitive

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					additional risk of genetic drift among species, that site specific introduction should be prohibited on public lands in conjunction with the BCAP program.	traits”.
District of Columbia	Paul	Noe	Other	Biological Resources	<p><b>American Forest and Paper Association:</b> Forest resources, to the extent that they are analyzed, are defined as biological resources and are considered as part of the analysis of several states as representing “Land Resource Regions” (Sec. 3.2.1). The States specifically identified for their forestry characteristics included Oregon (Northwestern forest, forage, and specialty crop region); Montana (Rocky Mountain range and forest region); Wisconsin (Northern lake states forest and forage region); Kentucky (East and Central farming and forest region); Georgia (South Atlantic and Gulf slope cash crops, forest, and livestock region); New York (Northeastern forage and forest region); and Louisiana (Atlantic and Gulf Coast lowland forest and crop region). The descriptions of the vegetation types and land uses in these regions are largely accurate (albeit very high level and general). However, in some regions (Oregon, for instance) the description of wildlife resources dwells on game species, while making no reference to the difficulties associated with managing both public and private forests with multiple listed species (including forest birds such as the Northern Spotted Owl, Marbled Murrelet, and various salmonids). The description of Montana’s wildlife resources states that “As always the loss of habitat and the prevention of large scale alterations to the natural cycling of nutrients are vital to protecting the ecological integrity and biodiversity of the region” (BCAP PEIS p. 3—14). This is a region that experiences large scale “natural cycling” of nutrients in the form of extremely large and catastrophic wildfires as climax lodgepole pine forests mature simultaneously across the landscape. The wildlife resources of Wisconsin are described in similarly general terms, focusing on game species and not sensitive species like the Northern Goshawk. Description of each forested region’s representative state</p>	Comment noted. Descriptions of land resource region in Section 3.2, although still very general, have been expanded to include represented game, non-game species and protected species. Discussion of effects on biological resources have been expanded in section 4.2 to include forest resources.

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					should include a brief discussion of the primary commercial timber species, average forest ownership size, and the value of stumpage and value of finished wood and paper products. While it is appropriate to identify some of the more sensitive forest types, we recommend that they then be analyzed in the environmental consequences section and references should avoid superlatives, e.g., “No habitat is more unique or biodiverse than the longleaf pine system” (BCAP PEIS p. 3—22).	
District of Columbia	Paul	Noe	Other	Biological Resources	<b>American Forest and Paper Association:</b> The FSA should consult with the USDA Forest Service and improve the description of the forested environment by analyzing, at a minimum, the socioeconomic factors which describe private forest ownerships mentioned above, and discuss at a minimum recent status and trends in forest cover using periodic Forest Inventory and Analysis reports for the States selected to describe each Land Resource Region, or through the interactive Forest Inventory Data Online (FIDO) tool developed by the USDA Forest Service.	Forestry resources and ownership are included in the discussion of cumulative effects (Section 5) under the Collection, Harvest, Storage, and Transportation section for eligible materials.
District of Columbia	Paul	Noe	Other	Biological Resources	<b>American Forest and Paper Association:</b> The PEIS’ discussion of biological resources suggests that the impacts of BCAP project areas will generally be limited and “not expected to reduce (wildlife) population densities or richness at the regional scale” and asserts that there is “currently, no consensus on how best to assess and quantify the sustainability of renewable energy production at the local scale” (BCAP PEIS p. 4-48). The PEIS further engages in a discussion of sustainability that does not consider efforts to define and measure forest sustainability (perhaps due to the focus on BCAP as a strictly agricultural program). The rest of the description of impacts on biological resources essentially asserts that through best management practices and avoidance of establishment and harvest activities in the	Comment noted. This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. THIS PEIS is not meant to be a detailed document applicable to a specific location since the geographic scale of potential BCAP Project Areas encompasses the entire U.S., rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected.. Therefore, site specific environmental evaluations would be



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					primary nesting season, the BCAP program can avoid major impacts on wildlife species. We note that in the case of the Endangered Species Act, this deferential approach has not been regarded as a valid method to avoid impacts to listed species nor to encourage their recovery.	conducted for individual proposed BCAP Projects Areas prior to approval (see section 1.3). BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits and project specific stipulations and mitigations will be developed. After the site-specific environmental review a separate NEPA analysis may be required at the local level which may tier (see 40 CFR 1508.28) off of or incorporate by reference this PEIS as appropriate. Furthermore, if protected species are present or suspected of being present during the site-specific environmental evaluation then formal consultation with USFWS would be completed and if it is determined that negative impacts to a listed species may occur then it is not likely the land would be approved for inclusion in a BCAP action. Protected species section has been added to section 3.2 and section 4.2 has been expanded as appropriate.
District of Columbia	Julie M.	Sibbing	Other	Biological Resources	<p><b>National Wildlife Federation:</b></p> <p>It is puzzling that, under discussion of Alternative 2, the summary chart states that "As with Alternative 1, provided established provisions, standards and guidelines are followed, and the Conservation Plan is adapted to resources conditions, Alternative 2 would have no significant negative impacts on vegetation or wildlife." Yet alternative 2 would allow for native ecosystems to be converted to monocultures, including native forests converted to short rotation woody crops or grasses.</p>	Comment noted. The effect-determination on wildlife and biological resources under Alternative 2 has been re-evaluated and determined to be potentially significant. The change in effect determination has been appropriately expressed in the document.

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					The analysis presents no evidence to conclude that, even with sufficient conservation plan requirements, that such a conversion could be done without significant impacts to wildlife or vegetation	
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Biological Resources	<p><b>U.S. Department of the Interior:</b></p> <p>Page 5-7, Section 5.3.2 - Biological Resources The finding that cumulative impacts to vegetation and wildlife under Alternative 2 could be either insignificant or significant is inconsistent with the summary for Alternative 2 on page ES-6.</p>	Comment noted.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Biological Resources	<p><b>U.S. Department of the Interior:</b></p> <p>Pages ES-5 and ES-6, Table ES-I, Biological Resources - Alternative 2</p> <p>We disagree with the Draft PEIS finding of no significant impacts on vegetation and wildlife from Alternative 2. This finding is inconsistent with the description of the Alternative 2 in the Draft PEIS as being implemented on a broad scope, with potential regional impacts across several ecosystems, including the potential for negative impacts on vegetation and wildlife from converting non-agricultural lands to biomass crops. The Draft PEIS states that the scale of the impact will depend on the types and amount of land converted to energy crops. Since the amount and types of land to be converted are unknown, the potential exists for significant impacts to wildlife species if large areas of existing grassland or forestland habitat are converted to biomass crop production. For example, the potential direct impacts from the loss of native habitat for prairie and sage obligate species, such as black-tailed and white-tailed prairie dogs, mountain plover, lesser</p>	Comment noted. The effect-determination on wildlife and all biological resources under Alternative 2 has been re-evaluated and determined to be potentially significant. The change in effect-determination has been appropriately expressed in the document.

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					prairie-chicken, and sage grouse needs to be considered.	
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Biological Resources	<p><b>U.S. Department of the Interior:</b></p> <p>We believe that impacts on vegetation and wildlife from Alternative 1 may be significant at the local level.</p>	<p>Comment noted. Based on the stage-based approach to NEPA described in the Council on Environmental Quality's (CEQ) Regulations implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR 1508.28) known as "tiering", specific consultation will be addressed at the site-specific level (discussed in section 1.3). We agree the possibility exists for site-specific significant impacts to occur, but the objective of the PEIS is to address the potential impacts at a regional scale. Site-specific issues, and conditions that may subject an area to too much potential significant negative impact will be addressed during the development of a conservation plan specific to that site location.</p>
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Biological Resources	<p><b>U.S. Department of the Interior:</b></p> <p>Page ES-6, Table ES-1, Biological Resources - Alternative 1</p> <p>The Draft PEIS describes" ... properly managed switchgrass ... " as dense, uniform plant stands with minimal structural diversity. This statement may apply in situations where the stand is managed to maximize benefits for one resource (i.e., biofuel production) instead of multiple resources (i.e., invertebrates and other wildlife). We recommend the Final PEIS simply describe management of the stand and, if appropriate, the primary purpose of the management (see</p>	<p>Comment noted. The description of stand management has been revised to reflect the need for multiple resource management and the word "properly" has been removed.</p>



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					page 4-56), but remove the modifier "properly."	
Delaware	Willie	Taylor	Federal Agency/ DOI	Biological Resources	<p><b>U.S. Department of the Interior:</b></p> <p>Impacts of the BCAP on fish and wildlife resources will depend on the type of biomass crops planted, where they are planted, and how they are managed and harvested. Since these decisions will be specific to the BCAP project area and the program participant's required Conservation or Forest Stewardship Plan, the site-specific environmental evaluation of BCAP project area proposals will be critical to determining the potential beneficial or detrimental impacts of BCAP on fish and wildlife resources.</p> <p>These comments on the Draft PEIS are offered here with the intent of enhancing the ability of the PEIS to inform and guide site-specific BCAP implementation decisions in a way that not only avoids or minimizes adverse impacts to water use and quality and to fish and wildlife resources, but also generates benefits for these resources. The Department believes that site-specific analysis requires the BCAP project area selection process should include a determination of whether the proposed land use change to a biomass crop and the proposed management and harvest of the crop will sustain and enhance fish and wildlife populations. The conversion of lands dedicated to energy crops will be most beneficial to fish and wildlife on lands that have been previously altered, such as cropland, pasture land, and plantation forest lands. Conversion of native grasslands, woodlands, or wetlands to energy crops will result in net losses of biodiversity and adverse impacts to fish and wildlife resources. In addition, the BCAP should compliment and not 'work at cross purposes with the conservation provisions of the Farm Bill and should treat fish</p>	Comment noted. The definition of native sod and what constitutes eligible lands under the BCAP alternative 1 and 2 have been revised to better reflect their determination. Additionally, under the proposed rule for BCAP sustainability of production is an important component that will be evaluated during the project area selection. This is more fully detailed in Section 2 of the document.

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					and wildlife as a co-equal resource with soil, water and other resource considerations.	
North Dakota	Keith	Trego	Other	Biological Resources	<p><b>Northern Great Plains Working Group:</b></p> <p>NGPWG: Page ES-6, Biological Resources (Vegetation, Wildlife) – Alternative 1</p> <p>The PEIS describes “properly managed switchgrass” as dense, uniform stands with minimal structural diversity. While this may be optimal for maximizing biomass yields it is generally not beneficial to wildlife, particularly grassland dependent birds. Dedicated energy crops, such as switchgrass, should be managed to provide benefits for multiple resources, including biomass yield, habitat for wildlife, habitat for invertebrates, improved water quality, etc. We recommend that the PEIS remove the word “properly” and simply describe the management of the stand and the primary purpose of the management.</p>	Comment noted. The description of stand management has been revised to reflect the need for multiple resource management and the word “properly” has been removed.
North Dakota	Keith	Trego	Other	Biological Resources	<p><b>Northern Great Plains Working Group:</b></p> <p>Page ES-6, Biological Resources (Vegetation, Wildlife) – Alternative 2</p> <p>The NGPWG disagrees with the draft PEIS conclusion that impacts to grassland birds would be minimal and that Alternative 2 would have no significant negative impacts on vegetation or wildlife. This finding is inconsistent with the description of Alternative 2 in the PEIS as “being implemented on a broad scope, with potential regional impacts across several ecosystems.” The negative impacts to grassland birds</p>	<p>Comment noted. The effect-determination on wildlife and biological resources under Alternative 2 has been re-evaluated and determined to be potentially significantly. The change in effect-determination has been appropriately expressed in the document.</p> <p>Eligible lands for BCAP project areas under Alternative 2 would not include Federal and State owned lands; land that is native sod; or land already enrolled in the CRP/Wetlands Reserve/Grasslands Reserve Programs. The definition of native sod and how it applies under BCAP has</p>

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					and other wildlife are potentially significant if non-agricultural lands include native grasslands that are allowed to be converted to biomass crops. Since the scope of Alternative 2 is expected to be broad, the potential exists for large-scale conversion of native grassland habitats to biomass crops.	been modified and improved in the document.
District of Columbia	Michael	Wach	Other	Biological Resources	<b>Biotechnology Industry Association:</b> The DEIS discusses GE plants in Section 4.2.6.1, purportedly dealing with the environmental consequences on the vegetative biological resources associated with a “no action” alternative. The basis for the placement of the discussion in this section is unclear. The discussion itself, and the papers cited to support the discussion, deal primarily with the potential use of biotechnology in the production of biofuel crops, rather than the use of biotechnology in commodity agriculture. See, e.g., diTomaso et al. 2007; Firbank 2008. The final PEIS would benefit from additional context explaining the relevance of GE plants in the “no action” alternative as compared to the other alternatives under consideration.	The discussions of biological resources affected environment (3.2) and effects (4.2) including the no action alternative have been revised and expanded to address “competitive traits”.
District of Columbia	Michael	Wach	Other	Biological Resources	<b>Biotechnology Industry Association:</b> The DEIS also includes a discussion of invasive species in Section 4.2.6.1 and, as with the discussion of GE plants, context for the discussion would be helpful. It may be appropriate to combine the two sections into a discussion of “competitive traits.” Plants, both traditional commodity crops and plants dedicated to biofuel production, are being developed through conventional plant breeding and biotechnology to produce greater yields on lower acreage, and with fewer agricultural inputs (such as water or nitrogen). In some cases, these traits will produce plants that are more competitive than related plants that have not been bred for these traits. The significance of these traits on the surrounding environment is an appropriate consideration in an environmental assessment. Moreover, it is appropriate to consider the impact of these	The discussions of biological resources affected environment (3.2) and effects (4.2) including the no action alternative have been revised and expanded to address “competitive traits”.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					traits under a “no action” alternative as well as under Alternatives 1 and 2. These traits will continue to be developed, even if FSA took no action on BCAP. And crops with these traits will be eligible to participate in BCAP under either Alternative 1 or 2, assuming production timelines will permit.	
North Dakota	Keith	Trego	Other	Biological Resources/ Mitigation/ Wildlife	<p><b>Northern Great Plains Working Group:</b></p> <p>Page 4-62, Section 4.2.4, Mitigation Measures</p> <p>While we agree that incorporating forbs in with switchgrass would enhance the value of the biomass crop for wildlife, we do not agree with the statement that “in instances where the advent of a monoculture is unavoidable, hedgerows that are wide and diverse should be used to border and break up the monoculture.” Generally, the addition of trees and shrubs in prairie landscapes has a detrimental affect on grassland nesting birds and we suggest this statement be removed. However, if shrubs are included as part of a conservation plan, care should be taken to ensure that only shrubs native to the region are planted.</p>	Comment noted. Discussion expanded to specify that mitigation measures should be regionally appropriate and site-specific. Sentence has been removed from text.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Biological Resources/ Mitigation/ Wildlife	<p><b>U.S. Department of the Interior:</b></p> <p>Pages 4-58 to 4-61, Section 4.2.4 - Mitigation Measures</p> <p>We support the strategies identified in the mitigation section to conserve biodiversity and maintain ecosystem function as the BCAP is implemented. Examples of these strategies include maintaining vegetative structure diversity, avoiding monocultures, providing buffers for sensitive areas, connecting areas of native habitat with corridors, maintaining landscape heterogeneity, applying disturbance regimes that mimic the</p>	Comment noted. Discussion expanded to specify that mitigation measures should be regionally appropriate and site-specific using only shrubs native to the region. Some aspects of this comment will be addressed in rule making.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					natural regime and controlling invasive species. We also support wildlife-friendly harvest practices, such as completing harvest outside of nesting and brood-rearing seasons and leaving a portion of the field unharvested each year. The Managers Report from the 2008 Farm Bill makes clear that the BCAP project area selection criteria requiring the consideration of impacts to "soil, water and related resources" includes wildlife-related concerns. By mitigating impacts on wildlife resources, other resource concerns, such as soil erosion and water quality and quantity can also be addressed. The concept of using an approach similar to the Conservation Reserve Program's Environmental Benefits Index to select the best areas for sustaining fish and wildlife resources and biofuel production has merit. The approach could incorporate the strategies identified in the Draft PEIS and emphasize native species appropriate to the BCAP project area (e.g., not planting trees on prairies).	
Tennessee	Davis	Mounger	Other	Biological Resources/ Other	<b>Heartwood, Inc:</b> BCAP Eligible Crops: 1.4.2 The 2008 Farm Bill defines Eligible Crops under BCAP as a crop of renewable biomass with the exclusion of any crop that is eligible to receive payments under Title 1 of the 2008 Farm Bill or any plant that is considered invasive or noxious or has the potential to become invasive or noxious. The irony of this is that, on public lands, virtually any road construction or reconstruction, canopy or vegetation removal creates conditions which make these areas for vectors for increased population and range of invasive or noxious plants. We submit that it is neither the intention of this program nor an acceptable byproduct of the program to increase the range or population of noxious or invasive plants, even though these plants may be considered to be an "eligible crop." Any use of invasive or noxious crops from public lands under this program should be done with the primary long-term goal of significantly reducing the range and populations of these "eligible crops." All necessary biological and mechanical (not chemical) precautions should be	Comment noted. Eligible land for BCAP project areas would not include federal or state-owned land; land that is native sod; or land enrolled in the CRP/Wetlands reserve/grassland reserve programs. Eligible Crops under BCAP exclude any plant that is considered invasive or noxious or has the potential to become invasive or noxious.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					undertaken to guarantee this.	
California	Brendan	Cummings	Other	Biological Resources/Threatened and Endangered Species	<b>Center for Biological Diversity:</b> Additionally, the conclusion articulated in the draft PEIS that no consultation is required under the Endangered Species Act (ESA), 16 U.S.C. § 1531, et seq., is also flawed as a matter of fact and law. - Failure to disclose and analyze the effects of the proposed action on threatened and endangered species. USDA's failure to discuss impacts on threatened and endangered species in the draft PEIS violates NEPA. USDA's refusal to consult on the BCAP itself also violates the ESA.	Comment noted. Protected species added to Section 3.2. Based on the stage-based approach to NEPA described in the Council on Environmental Quality's (CEQ) Regulations implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR 1508.28) known as "tiering", specific consultation will be addressed at the site-specific level. We agree the possibility exists for site-specific significant impacts to occur, but the objective of the PEIS is to address the potential impacts at a regional scale. Site-specific issues, and conditions that may subject an area to too much potential significant negative impact will be addressed during the development of a conservation plan specific to that site location.
California	Gregory	Ikonen	Other	Biological Resources/Vegetation	<b>Mendel Biotechnology:</b> Invasive Species Discussion  The "No Action" Alternative includes a discussion of invasive species (Section 4.2.6.1), for which some further context would be helpful. Energy crops are being developed through conventional plant breeding and biotechnology to produce greater yields on lower acreage, and with fewer agricultural inputs (such as water or nitrogen). In some cases, these traits will produce plants that are more competitive than related plants that have not been bred for these traits, and their potential impact on the surrounding environment in an appropriate consideration in an environmental assessment. Moreover, it is appropriate to consider the impact of these	Comment noted. The discussions of biological resources affected environment (3.2) and effects (4.2) including the no action alternative have been revised and expanded to address "competitive traits".



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					traits under a “no action” alternative as well as under Alternatives 1 and 2. These traits will continue to be developed, even if FSA took no action on BCAP.	
Virginia	David	Lee	Other	Biological Resources/ Vegetation	<p><b>Eden Space Systems Corporation:</b></p> <p>Invasive or noxious species – As defined by BCAP, “eligible crops” do not include plants that have the potential to be invasive or noxious; however, many high-yielding potential energy crops are fast-growing and competitive. Invasiveness should be based on federal standards, applied to the applicable geography, and not simply on whether a species originated in that location or elsewhere. For more details see the National Council for Invasive Species’ 2006 paper on invasiveness at <a href="http://www.invasivespeciesinfo.gov/docs/council/isacdef.pdf">http://www.invasivespeciesinfo.gov/docs/council/isacdef.pdf</a>.</p>	Comment noted. The discussions of biological resources affected environment (3.2) and effects (4.2) have been revised and expanded to address “competitive traits”.
North Dakota	Stephen	Adair	Other	Biological Resources/ Wildlife	<p><b>Ducks Unlimited:</b></p> <p>Page 4-68, Section 4.2.5.2 Wildlife, Direct Impacts, Birds</p> <p>DU believes it is premature to state that “BCAP is not expected to impact population densities or species richness at the regional scale from the conversion of croplands and areas of marginal habitat quality into BCAP.” While the conversion of cropland to biomass crops is generally thought to be a positive for grassland-dependent birds, we believe the PEIS neglects to recognize that such conversion will place additional conversion pressure on native grasslands in an effort by producers to “replace” cropland acres that were converted to biomass crops. USDA needs to implement protection measures for native sod in an effort to ensure that these native habitats are maintained. DU appreciates the opportunity to provide comments on the draft PEIS for implementation of the BCAP.</p>	Native sod definition has been improved, and there is no provision that allows the conversion of native sod land into the BCAP program.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					DU believes that BCAP, if properly implemented, can benefit producers, the biofuels and bioenergy industry, the environment and wildlife while providing important feedback that helps guide future biomass production programs. Please don't hesitate to contact us if we can be of further assistance in this process.	
North Dakota	Stephen	Adair	Other	Biological Resources/ Wildlife	<p><b>Ducks Unlimited:</b> Page ES-6, Biological Resources (Vegetation, Wildlife) – Alternative 1</p> <p>The PEIS describes “properly managed switch grass” as dense, uniform stands with minimal structural diversity. While this may be optimal for maximizing biomass yields it is generally not beneficial to wildlife, particularly grassland dependent birds. Dedicated energy crops, such as switchgrass, should be managed to provide benefits for multiple resources, including biomass yield, habitat for wildlife, habitat for invertebrates, improved water quality, etc. We recommend that the PEIS remove the word “properly” and simply describe the management of the stand and the primary purpose of the management.</p>	Comment noted. The effect-determination on wildlife and biological resources under Alternative 2 has been re-evaluated and determined to be potentially significant. The change in effect determination has been appropriately expressed in the document.
North Dakota	Stephen	Adair	Other	Biological Resources/ Wildlife	<p><b>Ducks Unlimited:</b> Page 4-52, Section 4.2.3.2, Wildlife, Direct Impacts, Birds</p> <p>DU commends the draft PEIS for recognizing that “no potential direct impact is more important than the alteration or prevention of grassland birds from being able to nest and reproduce safely.” We agree with the PEIS recommendation that “it is vital that any activity that might negatively affect the primary nesting seasons (Table 4.2-4) of grassland birds (Table 4.2-5) be avoided and mitigated. However, we don't agree with the selection of representative grassland birds by state listed in Table 4.2-5 for North Dakota and South Dakota.</p>	The table of representative species was amended to better represent species affected and to facilitate broader applicability of impact assessments.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					Mourning doves are only an occasional grassland nesting species in North Dakota with the majority of their nests located in forested or shrubby habitats. Northern bobwhite quail only occupy a very small range in the far southeastern corner of South Dakota. More appropriate representative grassland nesting species would be the mallard, northern pintail, Baird's sparrow, grasshopper sparrow, marbled godwit, willet, etc.	
North Dakota	Stephen	Adair	Other	Biological Resources/ Wildlife	<p><b>Ducks Unlimited:</b> Page ES-6, Biological Resources (Vegetation, Wildlife) – Alternative 2</p> <p>DU disagrees with the draft PEIS conclusion that impacts to grassland birds would be minimal and that Alternative 2 would have no significant negative impacts on vegetation or wildlife. This finding is inconsistent with the description of Alternative 2 in the PEIS as “being implemented on a broad scope, with potential regional impacts across several ecosystems.” The negative impacts to grassland birds and other wildlife are potentially significant if non-agricultural lands include native grasslands that are allowed to be converted to biomass crops. Since the scope of Alternative 2 is expected to be broad, the potential exists for large-scale conversion of native grassland habitats to biomass crops. DU strongly believes that the PEIS should clearly identify those lands that are ineligible for BCAP by statute such as native sod, lands enrolled in the Conservation Reserve Program, Wetlands Reserve Program, Grassland Reserve Program and Federal and State lands. In addition, the PEIS should also clearly define native sod for the purpose of identifying lands that are ineligible for BCAP</p>	<p>Comment noted. The effect-determination on wildlife and biological resources under Alternative 2 has been re-evaluated and determined to be potentially significant. The change in effect determination has been appropriately expressed in the document.</p> <p>Eligible land for BCAP project areas would not include federal or state-owned land; land that is native sod; or land enrolled in the CRP/Wetlands reserve/ grassland reserve programs.</p> <p>Native sod definition has been improved, and there is no provision that allows the conversion of native sod land into the BCAP program.</p>
District of Columbia	Matt	Hogan	Other	Biological Resources/ Wildlife	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>The following statement is made in this same section, It is not likely that there would be significant losses from direct impacts</p>	<p>Comment noted. Establishment and harvest would occur outside of PNS which would also benefit deer during fawning periods in addition to other wildlife.</p>



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					of biofuel crop conversion on whitetail deer. They are highly mobile and can move out of harm's way. Deer could possibly be birthing when haying or grazing is initiated since the birthing period for deer begins in May and can extend into August (Snyder 1991). However, deer are strongly associated with riparian areas and other densely shrub covered areas rather than open areas associated with fields in which managed crop conversion would take place. Individual young may experience conflicts with humans during the establishment phase, but it is not likely to occur at a level that would result in an impact to a population. Yet the often quoted Harper and Keyser (2009) contradicts this, If switchgrass is harvested for a high-quality hay crop in mid- to late May, nests of many songbirds, quail and turkeys will be destroyed and their recruitment negatively impacted. It is also at this time that white-tailed deer are fawning. Fields with substantial cover are highly sought by whitetail does as cover to hide fawns during their first several weeks of life. When fields are hayed from late May through July, it is common for fawns to be killed by mowers. It's obvious from this statement that deer are using open fields, especially during fawning periods and may be killed if activities are not properly regulated.	
District of Columbia	Matt	Hogan	Other	Biological Resources/ Wildlife	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>10) There are many errors in this document that call into question its validity, a few of which follow: Page 157, Section 4.2.3.2 on page 4-51. states that , Harper and Keyser (2009) suggest that switchgrass provides improved thermal cover and concealment from predators for does and fawns during the springtime, and that deer may utilize the rhizomes of the switchgrass as a valuable food source. Deer do not eat the rhizomes of switchgrass, rhizomes are underground. Upon review of the listed reference by Harper and Keyser (2009), no mention of deer utilizing rhizomes was found. In fact they suggest the opposite: Although native grasses can provide</p>	Comment noted. PEIS document has been revised. References have been verified, augmented, and replaced where necessary to address concerns.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>desirable structure and cover, they do not provide food for many wildlife species common to Tennessee. Mammals, such as elk and cattle, readily consume native grass forage. In contrast, white-tailed deer, cottontail rabbits and groundhogs do not graze native perennial grasses as a group any more than they would non-native perennial grasses. For these animals, various forbs are selectively grazed.</p> <p>Page ES-7 (Summary) Reptiles and amphibians are relatively slow moving, the reference that impacts to them by mowing a field center out will be minimized is false. This recommendation is for mitigating impacts to more mobile wildlife (like birds and mammals).</p> <p>Page ES-7 (Summary) Conversion of non-cropped habitats to BCAP will have indirect impacts of removing diverse habitat and replacing it with monocultures (habitat loss) The statement that conversion will only have impacts on birds if done during the nesting season is false. Compared to the long-term negative impacts of converting diverse native habitats, the loss of nesting in one season is small. The major loss is the loss of appropriate habitat that those species are tied to, which is highly unlikely to biomass crop lands.</p> <p>Page 158 (Section 4.2.3.2 on page 4-52) once again misquotes Harper and Keyser when it says, The bunchgrass nature of switchgrass can be very beneficial to species like bobwhite quail and wild turkey because it provides overhead cover but allows the broods to wander around freely searching for insects and other sources of nourishment when in fact Harper and Keyser were discussing a native grass mix containing forbs, not a switchgrass monoculture.</p>	

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
District of Columbia	Matt	Hogan	Other	Biological Resources/ Wildlife	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>5) Throughout the document, the analysis of wildlife impacts do not adequately address the potential impacts from converting forest or grasslands to woody biomass crops, nor does the analysis adequately consider any other potential feedstocks other than switchgrass.</p> <p>9) State Wildlife Action Plans are referenced in the document, but the approach to identifying how the needs of those species will or will not be met in the BCAP program is not sufficient. One approach would be the implementation of an EBI-type strategy (Section 4.2.4 on page 4-62) which would integrate the needs of species identified in SWAPS. The current “analysis” of the needs of species identified in SWAPS is not even useful, as the PEIS primarily identifies that the needs of these species will be met on lands that are not in BCAP. The analysis of BCAP needs to consider how the program could impact those species. The summary that species needs will be met elsewhere should perhaps be changed to “BCAP will harm those species in SWAPS where existing grass and forestlands are converted to monocultures biomass crops”.</p>	Comment noted. Definitions of eligible lands under BCAP, as well as representative crops from other feedstock groups and the impacts on biological resources have been added. The effect-determination on wildlife and biological resources under Alternative 2 has been re-evaluated and determined to be potentially significant. The change in effect-determination has been appropriately expressed in the document.
District of Columbia	Matt	Hogan	Other	Biological Resources/ Wildlife	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>1) The conclusions in the executive summary of this document are not supported within the document. Specifically, the treatment of the environmental consequences from alternative 2 as “similar” to those in alternative 1 are not supported from a native wildlife and plant standpoint. In the document, the significance of alternative 2 cannot be determined for native wildlife and plants (it will be negative for native plants and wildlife tied to native plant communities; which are more likely to be species at risk and Threatened and Endangered</p>	Comment noted. The effect determination on wildlife and other biological resources under alternative 2 has been re-evaluated and determined to be potentially significant. The change in effect-determination has been appropriately expressed in the document.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					species), but the summary identifies that the impact will not be significant.	
Washington	Nathaniel	Lawrence	Other	Biological Resources/ Wildlife	<p><b>NATIONAL RESOURCE DEFENSE COUNCIL:</b> Programmatic review under the National Environmental Policy Act (NEPA) may be more generalized than review of specific implementing actions, but still must serve NEPA's core function of informing the decision-making process about how large and what kind of program to pursue. In numerous regards, the DPEIS fails this basic standard. Most obviously, throughout the DPEIS the discussion of environmental impacts is extraordinarily general and vague. For example, the discussion of individual wildlife that might be affected by the program's application throughout the Pacific Northwest Coast region, an area where numerous threatened and endangered species occur on lands potentially within the program's reach, is: Large mammals such as the black-tailed (<i>Odocoileus hemionus</i>) mule deer provide plentiful hunting opportunities in forested habitats. Gamebird hunting is another economic opportunity in the areas comprised of prairies and savannas where species such as the California quail (<i>Callipepla californica</i>) and ringneck pheasant (<i>Phasianus colchicus</i>) reside. DPEIS, p. 3-11. The DPEIS must have, but lacks, summary information about the species involved and the kinds and magnitudes of affects that best available science indicates are possible, from implementation of the studied alternatives. Similarly, it must provide useful summary information about other resources, including water, soil, and air</p>	Comment noted. Based on the stage-based approach to NEPA described in the Council on Environmental Quality's (CEQ) Regulations implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR 1508.28) known as "tiering", specific consultation will be addressed at a site-specific evaluation level. The Section 3 on wildlife has been expanded to include a general statement regarding the presence of RTE and non-game species.
	Thomas	Robb	Other	Biological Resources/ Wildlife	<p><b>Abengoa Bioenergy:</b> Biological Resources (vegetation, wildlife)</p> <p>We agree with the EIS that implementing the program on a</p>	Comment noted.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					narrow scope would have limited impact on wildlife species.	
District of Columbia	Julie M.	Sibbing	Other	Biological Resources/Wildlife	<b>National Wildlife Federation:</b> While the U.S. EPA has called for more detailed analysis of water quality issues related to the program, NWF calls on USDA and Geo-marine to also expand and deepen their analysis of wildlife and biodiversity impacts of the program prior to finalizing the PEIS.	Comment noted. Appropriate sections have been revised and expanded where necessary. Section 3 has been expanded include invasive and noxious plants, Genetically engineered plants environmental sustainability, habitat fragmentation and protected species.
District of Columbia	Willie	Taylor	Federal Agency/DOI	Biological Resources/Wildlife	<b>U.S. Department of the Interior:</b>  Pages 4-67 to 4-68, Section 4.2.5.2 - Wildlife  The conclusions in the Draft PEIS regarding the direct and indirect impacts to wildlife from implementation of Alternative 2 are the same as for Alternative 1. These conclusions appear inconsistent with the description of Alternative 2 in the Draft PEIS as including a much larger pool of potential BCAP project locations than Alternative 1 in size, scope and the types of land that may be considered (i.e., new non-agricultural land).	Comment noted. Eligible land for BCAP project areas would not include Federal or State-owned land; land that is native sod; or land enrolled in the CRP/Wetlands Reserve/Grassland Reserve Programs. All BCAP eligible project areas must develop an appropriate conservation/forest management plan and if necessary undergo Section 7 consultation prior to final acceptance into the program. Based upon the "tiering" stage-based approach used within the NEPA process described in the CEQ Regulations for Implementing the Procedural Provisions of the NEPA (40 CFR 1508.28). site-specific analyses are required.
North Dakota	Keith	Trego	Other	Biological Resources/Wildlife	<b>Northern Great Plains Working Group:</b>  Page 4-52, Section 4.2.3.2, Wildlife, Direct Impacts, Birds  The NGPWG commends the draft PEIS for recognizing that "no potential direct impact is more important than the alteration	Comment noted. The effect-determination on wildlife and biological resources under Alternative 2 has been re-evaluated and determined to be potentially significantly. The change in effect-determination has been appropriately expressed in the document.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					or prevention of grassland birds from being able to nest and reproduce safely.” We agree with the PEIS recommendation that “it is vital that any activity that might negatively affect the primary nesting seasons (Table 4.2-4) of grassland birds (Table 4.2-5) be avoided and mitigated. However, we don’t agree with the selection of representative grassland birds by state listed in Table 4.2-5 for North Dakota and South Dakota. Mourning doves are only an occasional grassland nesting species in North Dakota with the majority of their nests located in forested or shrubby habitats. Northern bobwhite quail only occupy a very small range in the far southeastern corner of South Dakota. More appropriate representative grassland nesting species would be the mallard, northern pintail, Baird’s sparrow, grasshopper sparrow, marbled godwit, willet, etc.	
North Dakota	Keith	Trego	Other	Biological Resources/ Wildlife	<p><b>Northern Great Plains Working Group:</b></p> <p>The NGPWG believes that site-specific environmental evaluations for BCAP project area selection should focus on assessing the direct and indirect changes to land use that will occur as a result of the BCAP project and the impacts those land use changes will have on wildlife populations, particularly grassland-dependent birds. Site-specific evaluations should also strongly consider the impacts of proposed biomass harvest and management strategies on local and migratory wildlife resources.</p>	Comment noted. These issues will be taken into consideration at the rule-making stages of BCAP.
North Dakota	Keith	Trego	Other	Biological Resources - Wildlife	<p><b>Northern Great Plains Working Group:</b></p> <p>Page 4-68, Section 4.2.5.2 Wildlife, Direct Impacts, Birds</p> <p>The NGPWG believes it is premature to state that “BCAP is not expected to impact population densities or species richness at the regional scale from the conversion of croplands</p>	Comment noted. The effects-determination on wildlife and biological resources under Alternative 2 has been re-evaluated and determined to be potentially significantly. The change in effect-determination has been appropriately expressed in the document. Additionally, land in Native sod is ineligible for the Project Area component of BCAP.



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					and areas of marginal habitat quality into BCAP.” While the conversion of cropland to biomass crops is generally thought to be a positive for grassland-dependent birds, we believe the PEIS neglects to recognize that such conversion will place additional conversion pressure on native grasslands in an effort by producers to “replace” cropland acres that were converted to biomass crops. USDA needs to implement protection measures for native sod in an effort to ensure that these native habitats are maintained.	
Tennessee	Davis	Mounger	Other	Cumulative	<b>Heartwood Inc:</b> Cumulative effects of this program, in conjunction and in proximity in space and time with other FS projects, need to be assessed both at a programmatic and project level.	This PEIS assesses impacts on a programmatic or broad level as it is impossible to know which areas or lands will become BCAP Project area sites to assess cumulatively in this Final PEIS. After the site review and the identification of potential environmental impacts a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.
Tennessee	Davis	Mounger	Other	Cumulative	<b>Heartwood Inc:</b> Environmental Consequences – Because the specific locations of the BCAP project areas and the numbers of participants are not known...conditions under which particular component actions of the BCAP would have the potential for significant environmental impact will require site-specific environmental reviews and compliance with applicable environmental laws...4.73 We agree with this finding and submit that the cumulative effects of all projects falling under the auspices of the BCAP be assessed in total for their cumulative environmental impacts in addition to their site specific (by plant) and project specific impacts.	This PEIS assesses impacts on a programmatic or broad level as it is impossible to know which areas or lands will become BCAP Project area sites to assess cumulatively in this Final PEIS. After the site review and the identification of potential environmental impacts a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Washington	Nathaniel	Lawrence	Other	Cumulative Impacts	<b>NATIONAL RESOURCE DEFENSE COUNCIL:</b> Additionally, the DPEIS omits an obvious category from its cumulative impacts assessment. As it notes, the Project Area Program which it reviews, however cursorily, is only half of the full BCAP. The other half is the Collection, Harvest, Storage, and Transportation component, which also provides monetary assistance to promote biomass production and utilization. This is a reasonably foreseeable related action which NEPA requires be studied with or accounted for in any environmental impact statement.	The Final PEIS has been revised and the Collection Harvest Storage and Transportation component of BCAP is analyzed in Section 5, Cumulative impacts.
District of Columbia	Paul	Noe	Other	Cumulative Impacts	<b>American Forest and Paper Association:</b> Third, the cumulative impacts analysis fails to take into consideration several existing and/or reasonably foreseeable policies which may have a large impact on biomass demand. The PEIS misstates the number of State and Federal policies impacting renewable energy demand, and, in part because of the unclear portrayal of the matching payments program, potentially misstates the overall demand for renewable biomass that could contribute to the cumulative environmental impacts for the BCAP program. The PEIS also fails to include in the analysis existing demand for renewable biomass for nonenergy use, such as wood and paper products.	The cumulative impacts section (Section 5) has been revised to include the cumulative impacts associated with the current existence of 27 state incentive programs for alternative energy production. Please refer to section 5.2.5.
District of Columbia	Paul	Noe	Other	Cumulative Impacts	<b>American Forest and Paper Association:</b> The PEIS notes the Renewable Fuel Standard created by EISA, various tax credits and loan guarantees provided in the American Recovery and Reinvestment Act of 2009, and seven bioenergy programs from the 2008 Farm Bill, as well as Oregon's Biomass Producer or Collector Tax Credits as examples of other programs or projects which may interact with the no action and proposed Action Alternatives. However, FSA failed to take note of the 29 States with renewable energy mandates, ranging from 8% in Pennsylvania to 33% in California, with one	FSA will take this comment under consideration during the formulation of the rulemaking.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>state (Texas) stating a numeric goal of 5,880 MW by 2015. Moreover, existing regional (such as the Regional Greenhouse Gas Initiative) and prospective national climate legislation will encourage electric utilities and other power producers to use large amounts of wood to reduce their carbon footprints. Finally, the PEIS does not account for foreign climate change requirements that are driving demand for biomass exports. Several studies have considered these incentives and mandates and discussed in detail anticipated increases in biomass demand as a result:</p> <ul style="list-style-type: none"> <li>• A study by RISI, a well-respected forest products industry consulting firm, found that a combined 15% national renewable fuel standard and a 15% national renewable electricity standard “would result in an additional demand for 216 million oven dry tons of wood by 2023.” That would amount to 85% of traditional demand for wood. The study also found that forest inventories in the south would be reduced “to about one-quarter of their current levels” by 2030. (Emerging Biomass Industry: Impact on Woodfiber Market, RISI, 2008)</li> <li>• A recent Energy Information Administration (EIA) study of the American Clean Energy and Security Act of 2008 (H.R. 2454) released in August 2009 indicates that total electricity generation from biomass will increase from 43.1 billion kWh in 2008 to 218.4 billion kWh in 2030 under the “reference case” which assumes that new climate legislation is not enacted. This reflects existing federal tax incentives and state renewable portfolio standards (RPS) mandates. However, if H.R. 2454 is adopted as currently written, electricity generation from biomass would increase to 360 billion kWh in 2030, according to the study’s base case assessment. Based on the above-noted EIA projections, AF&amp;PA estimates that dry tons of biomass consumption would increase from 37 million in 2008 to 187 million tons in 2030 under the reference case and to 308 million dry tons in 2030 under the base case. To put these numbers in perspective, harvests levels from U.S. are currently</li> </ul>	



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					about 200 million dry tons a year. These studies suggest that FSA must exercise caution as it implements the BCAP. FSA should consider, and, where possible, implement policies which provide incentives for reliable and affordable regional fiber supplies rather than a particular end use, while maintaining open market access. FSA should also take steps to ensure that the RFS promotes sustainable forest management.	
District of Columbia	Paul	Noe	Other	Cumulative Impacts	<b>American Forest and Paper Association:</b> The BCAP reflects the desire of Congress and the President to promote the domestic use of renewable bio-energy and promote U.S. energy security. Recently, the European Union rule requiring member countries to generate 20 percent of their electricity from renewable resources by 2020 has sharply increased demand for wood pellets. Reports from Europe indicate that increased demand for biomass by the energy sector is driving up the price of wood pellets as well as chips, sawdust and of small diameter logs, the traditional feedstock for the pulp and paper industry. As noted above, the jobs impact alone relating to driving wood to uses other than traditional wood and paper products is significant.	The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.  As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.
District of Columbia	Paul	Noe	Other	Cumulative Impacts	<b>American Forest and Paper Association:</b> The PEIS suggests that for Action Alternative 1, the limitation on the number of BCAP project areas will limit cumulative impacts on the environment. However, we note that Iowa, Colorado, New Mexico, and Missouri – all states identified as “top BCAP project sites with enough Feedstock Production Potential” on p. 4—9 – all have renewable portfolio requirements at the State level. These requirements have the potential to drown out proposed safeguards within the BCAP program.	The cumulative impacts section (Section 5) has been revised to include the cumulative impacts associated with the current existence of 27 state incentive programs for alternative energy production. Please refer to section 5.2.5.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
District of Columbia	Paul	Noe	Other	Cumulative Impacts	<p><b>American Forest and Paper Association:</b> Further, the PEIS asserts that USFS NEPA requirements will “limit the cumulative effects from the use of forestry residues, as each removal application would be required to follow all applicable Federal, State, and local environmental regulations and mitigation measures” (BCAP PEIS p. 5—6). This misunderstands two very large realities of the impact of the USDA Forest Service on management of the nation’s forests. First, the Forest Service only has direct responsibility for the National Forest System, which plays an increasingly limited role in the national fiber supply picture. While some anticipate that the NFS will have a larger share of the residue market than its current 3-4% of the commercial timber market, this anticipation may likely prove overly optimistic. Second, other than the agency’s research programs and its funding for state forestry programs, the Forest Service has little influence on the management of private forest lands, and has no regulatory authority over them. The Forest Service will have little ability to limit any effects of biomass removal. This PEIS will be the only opportunity to provide a programmatic analysis of the impacts of the BCAP program on private forestland.</p>	An assessment of existing forestry resources is included in Section 5. This analysis does indicate the amount of forestry residues potentially available from acceptable forestry management practices as detailed in the latest forestry resources report from the USFS. All eligible materials must come from tracts with a forestry stewardship plan or the equivalent.
District of Columbia	Matt	Hogan	Other	Cumulative Impacts/ Socio-economics and Land Use	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>6) At the end of section 5.3.1 on page 5-6, this analysis does not adequately consider the potential for use of woody materials, nor does it adequately account for the potential scope of conversion of existing private forest lands to short rotational woody crops. The US Forest Service’s NEPA process only applies to the 193 million acres of public lands managed by that agency (which also includes national grasslands). There are over 700 million acres of forestlands in the US, of which over 60% are privately owned. Thus, the USFS NEPA process does not adequately address how this program under alternative 2 could impact the majority of</p>	Non-agricultural lands are for Alternative 2 is defined as non-industrial private forest land (NIPFL) that could be planted to herbaceous crop species thereby utilizing standard agricultural practices rather than forestry practices to produce a crop. The potential impacts associated with conversion of these lands to dedicated energy crops have been analyzed in the BCAP Final PEIS and determined to be of low probability when compared t conversion of agricultural lands into dedicated energy crops. The economic models utilized for this analysis assumed that non-agricultural lands would not be

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					(private) forestlands in the US. USFS land is not eligible for the portion of the BCAP program in this analysis, nor does USFS provide NEPA analysis for private forest landowners' actions.	cost-effectively converted given the lack of infrastructure to those non-agricultural lands in comparison to agricultural lands that could be cost-effectively converted. The overall probability of the conversion of non-agricultural lands would be low given the timeframe and scope of BCAP.
North Dakota	Stephen	Adair	Other	Mitigation	<p><b>Ducks Unlimited:</b> Page 4-62, Section 4.2.4, Mitigation Measures</p> <p>While we agree that incorporating forbs in with switch grass would enhance the value of the biomass crop for wildlife, we do not agree with the statement that “in instances where the advent of a monoculture is unavoidable, hedgerows that are wide and diverse should be used to border and break up the monoculture.” Generally, the addition of trees and shrubs in prairie landscapes has a detrimental effect on grassland nesting birds and we suggest this statement be removed. However, if shrubs are included as part of a conservation plan, care should be taken to ensure that only shrubs native to the region are planted.</p>	Comment noted. Sentence removed.
District of Columbia	Matt	Hogan	Other	Mitigation	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>7) The mitigation requirements to minimize impacts (Section 6.0) are clearly an underpinning of the analysis of both alternatives, yet are not well referenced in the summary. This needs to be much more clear in the document, specifically in the summary, that only if those requirements are followed in the development of the program and rules, will this analysis apply to the program. As written, it is not clear that both alternatives depend on the use of these mitigation strategies.</p>	Comment noted. The final PEIS has been revised to clarify this information.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Minnesota	Jim	Kleinschmit	Other	Mitigation	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> Page 215 Mitigation Recommendations. The PEIS mischaracterizes the required conservation plan for all BCAP farm participants as being focused only on Conservation Reserve Program participants, to ensure compliance with CRP while growing biomass under BCAP. The true purpose of the conservation plan is for NRCS to approve every non-forest BCAP participant's total management of their biomass land. The conservation plan should include protection of water, soil and wildlife and include specific requirements for every practice needed during establishment, production and harvest.</p>	Section 2 has been revised to include a detailed description of the actions required for establishment and administration of the Project Areas Program component of BCAP. This includes a description of the conservation or forest stewardship plan (or equivalent) requirements specific to BCAP Project Areas.
Minnesota	Jim	Kleinschmit	Other	Mitigation	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> We recommend that FSA work in partnership with NRCS to create a version of the newly developed Conservation Measurement Tool to apply specifically to biomass production. This tool can assess each grower's site and conservation practices to ensure sustainable operations.</p> <p>NRCS needs to create criteria for an approved conservation plan for each BCAP contract. Other than the CMT, there are no such criteria now. NRCS Practice Standards specify how to do a practice if and when a farmer voluntarily chooses such a practice. They do not provide recommendations. It is essential that BCAP have rigorous conservation and forest stewardship plans that meet stated criteria for approval, and in fact are monitored to ensure that the plans are implemented during the five year BCAP contract.</p>	Comment noted. FSA plans to monitor the data from the BCAP activities to determine, as appropriate, what additional mitigation measures or criteria may be needed as the program progresses.
South Dakota	Stephen	Adair	Other	Other	<p><b>Ducks Unlimited:</b></p> <p>Page 1-16, Section 1.4.5.1, Current Ethanol Production Facilities, DU supports the recognition that "currently, the</p>	Comment Noted. The BCAP was established by the 2008 Farm Bill as a new Title IX energy program. The goal of the new program is to promote the production and utilization of cellulosic feedstock that show

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					majority of ethanol is made from corn but to significantly increase ethanol production, the use of cellulosic feedstock such as agricultural residues, grasses and wood will be needed."	exceptional promise for producing highly energy-efficient bioenergy or biofuels, and to develop those new crops and cropping systems in a manner that preserves natural resources. In addition, BCAP crops are not to be those that are primarily grown for food or animal feed.
North Dakota	Stephen	Adair	Other	Other	<p><b>Ducks Unlimited:</b></p> <p>Page 1-3, Section 1.3.2.1, Definitions Applicable to the CHST Provisions of the BCAP. DU recommends the draft PEIS provide definitions for agricultural lands and native sod to clarify and identify land that is ineligible for conversion to biomass crops. The definition should make it very clear that native sod is not construed as pastureland if being grazed by livestock.</p>	Section 2 has been revised to include a section which discusses those definitions applicable to the Project Area provision of BCAP including a discussion of those lands eligible and ineligible for a BCAP Project Area.
North Dakota	Stephen	Adair	Other	Other	<p><b>Ducks Unlimited:</b></p> <p>Page 1-4, Section 1.3.2.2, CHST Matching Payment Program Provisions DU supports the requirement that the collection, harvest, storage and transport of eligible materials from National Forest System (NFS) and Bureau of Land Management public lands in accordance with all laws and regulations that apply to the U. S. Forest Service and U.S. Bureau of Land Management. In additions, we support the provisions listed on pages 1-4 and 1-5 for the collection, harvest, storage and transport of eligible materials from Tribal, State and private lands</p>	Comment Noted. In addition, the CHST matching payments will be subject to environmental compliance including NEPA compliance for all eligible material removed from Federal lands pursuant to existing Forest Service procedures, Forest Stewardship Plans, or equivalent for eligible material collected and harvested from private forest land, and Conservation plans and conservation compliance for eligible material collected or harvested from cropland.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
New Mexico	Bryan	Bird	Other	Other	<p><b>Wild Earth Guardians :</b></p> <p>WildEarth Guardians concludes that the DPEIS contains neither adequate comparative information on potential impacts nor a sufficient range of alternatives to allow the public, other agencies, government officials, or decision makers to arrive at a sufficiently reasoned choice. We therefore ask that the DPEIS be withdrawn and that a significantly revised version be circulated for further comment. Programmatic review under the National Environmental Policy Act (NEPA) may be more generalized than review of specific implementing actions, but still must serve NEPA's core function of informing the decision-making process about how large and what kind of program to pursue. In numerous regards, the DPEIS fails this basic standard. Most obviously, throughout the DPEIS the discussion of environmental impacts is extraordinarily general and vague. Also, the issue of indirect land conversion as existing cropland is devoted to biofuels is ignored. We hope these flaws will be cured in future drafts.</p>	<p>This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. THIS PEIS is not meant to be a detailed document applicable to a specific location since the geographic scale of potential BCAP Project Areas encompasses the entire U.S. and it's territories rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected. Therefore site specific environmental evaluations would be conducted for individual proposed BCAP Projects Areas prior to approval. BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits and project specific stipulations and mitigations will be developed. After the site review and the identification of potential environmental impacts a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.</p>
New Mexico	Bryan	Bird	Other	Other	<p><b>Wild Earth Guardians :</b></p> <p>Biomass generated electricity is being pushed as an alternative, clean and renewable energy on par with solar and wind sources in many quarters including the U.S. Government.</p>	<p>Comment noted. FSA will take this comment under consideration during the formulation of the rulemaking.</p>



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					However, this well-intentioned effort is misguided. Trees and other woody biomass may feasibly fuel some of our energy needs at some scale, but at what costs: soils, clean air, water, wildlife? The fundamental problem with burning wood, especially our forests, to generate energy is that it is not always clean nor is it necessarily renewable. Further woody biomass will take substantial government subsidies. The U.S. Government should not "assist with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility." Taxpayer monies are better used supporting alternative energy technologies that indisputably reduce greenhouse gas emissions and are technologically available, such as wind and solar.	
District of Columbia	Susan	Bromm	Federal Agency	Other	<p><b>Environmental Protection Agency:</b></p> <p>Because the BCAP program has the potential to impact environmental resources and specific locations of project areas and the participants are unknown, EPA recommends that the proposed BCAP include a monitoring component to assess the program's impacts and effectiveness. The final EIS should include a monitoring program and discuss how it will be used as a feedback mechanism for the program and subsequent individual projects.</p>	Comment noted. FSA plans to monitor the data from the BCAP activities to determine, as appropriate, what additional mitigation measures or criteria may be needed as the program progresses.
Washington	Kevin	Godbout	Other	Other	<p><b>Weyerhaeuser:</b></p> <p>We seek to clarify the CHST Matching Payment Program requirements for NIPF. The PEIS incorrectly states that eligible material harvested or collected from NIPFs, must be done in accordance with applicable in the BCAP project area program, not the CHST program. Please refer to the language in the 2008 Farm Bill (HR 2419-408 9(c) (3) (B) (iii) (II)-BCAP project areas/contract/minimum terms/stewardship plans). The CHST</p>	Comment Noted. This statement has been revised to correctly reflect the language that is in the 2008 Farm Bill. Please refer to Section 2 for a discussion on Forest Stewardship Plans or the equivalent.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					program allows for payment for the delivery of eligible material to a person with the right to collect or harvest eligible material (HR 2419-408 9 (d) (1) (B)). For CHST payments, a private landowner must remove eligible material in accordance with all applicable laws, ordinances, permit requirements and other requirements of all governmental jurisdictions. We suggest that when a FSP is required, other "like-kind" programs be considered FSA equivalent. This should include items like forest certification, state forestry BMPs state forestry notification systems and state forestry permit systems, where they currently apply.	
Washington	Kevin	Godbout	Other	Other	<p><b>Weyerhaeuser:</b></p> <p>We support the inclusion of, crop and forestry residues (second-generation feedstocks) as eligible materials for CHST and BCAP project areas. These eligible crops and forestry residues are currently being utilized to produce heat, power and bio-based products. However, to achieve the ambitious goals of energy security and promote the use of domestic energy, the proposed program will need to achieve significant scale, be adequately funded, operate in all regions of the United States and have inclusive broad eligibility requirements.</p>	Comment noted. FSA will take this comment under consideration during the formulation of the rulemaking.
Oregon	Doug	Heiken	Other	Other	<p><b>Oregon Wild:</b></p> <p>The proposed action alternative is to establish and administer the Project Areas Program component of BCAP as mandated in Title IX of the 2008 Farm Bill.</p> <p>We acknowledge and support a orderly transition to the carbohydrate economy but it must be done in such a way that:</p> <p>(a) Biofuels must be part of a comprehensive national energy</p>	FSA agrees with your comment. The primary focus of the BCAP is the establishment and production of highly energy-efficient bioenergy or biofuels that preserve natural resources and are not primarily grown for food or animal feed. BCAP eligibility is also conditioned on the site-specific impact on wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits.

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					<p>policy that adequately addresses climate change mitigation, climate change adaptation, environmental security, energy independence, national &amp; global security, and social justice;</p> <p>(b) Biofuel use must be coupled to real and substantial reductions in fossil fuel use. It makes no sense to develop biofuels (which may or may not reduce climate change impacts) if fossil fuel use continues to grow; c) Development and use of biofuels does not result in net reduction in biological carbon storage in ecosystems such as forests, woodlands, rangelands, grasslands, wetlands, croplands, waterways, etc... Native ecosystems are one of the most important means of capturing and storing carbon on a global basis. Our efforts to develop biofuels must not impair ecosystems' current storage and future capacity for carbon storage.</p>	
Oregon	Doug	Heiken	Other	Other	<p><b>Oregon Wild:</b> This program should avoid creating incentives to transfer of large acreage from biodiverse conservation reserve programs to monocropping biofuel crops. At any rate, the consequences must be disclosed.</p>	Lands enrolled in the conservation reserve programs are ineligible for the program.
Minnesota	Jim	Kleinschmit	Other	Other	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> P 43 Biomass Conversion Facilities. You fail to include the use of biomass for power and heat at existing biofuels facilities – key areas of opportunity for new and economical biomass use.</p>	The discussion in Section 1.4.5 has been expanded to include this information.
Minnesota	Jim	Kleinschmit	Other	Other	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> Specific comments follow:</p> <p>P 40 BCAP Eligible Crops. The law clearly says that Title 1 commodity crops are not eligible crops for BCAP. We object to the interpretation presented here (and in the CHST NOFA) that Title 1 commodity crop residues are eligible crops. That is not</p>	Comment noted. Per the proposed rule, “In accordance with the 2008 Farm Bill, CCC proposes that crop residue or other similar byproducts of crop production and harvesting, ..., remain eligible materials for matching payments without further limitations or restrictions. CCC proposes that for such eligible materials’ Conservation



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>our reading of the clear language of the law. There is no rational reason for Congress to subsidize removal of a residue product after they have already subsidized the commodity crop itself. The distinction between the grain and the crop stem, stalk, cob or hull is not important, as the entire crop was already produced with commodity program support and needs no further incentive. We recommend that the CHST program immediately suspend payments for Title 1 crop residues.</p> <p>In addition, Appendix B of the PEIS should be revised to exclude Title 1 residues.</p>	Plans, Forest Stewardship Plans, or equivalent should be updated or initiated to address the removal of the material as needed."
Minnesota	Jim	Kleinschmit	Other	Other	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> We support the assertion of the PEIS on page 40 that BCAP projects should focus on dedicated energy crops—however, this must be written into the rule, and it is consistent with our interpretation of the law for both parts of BCAP. In an apparent self-contradiction, the PEIS on page 47 seems to say the CHST list of eligible materials would apply to BCAP project areas as well. We strongly oppose using that list for BCAP projects. In addition, the CHST program ought to be returned to its original intent: to assist BCAP contract holders ONLY. The intent is to help with CHST for new biomass materials that need innovation and development of techniques for CHST issues.</p>	This PEIS focuses solely on the impacts associated with implementation of the Project Area and Annual Payment Component of BCAP. The Final PEIS has been revised to clarify this information and mitigate any further confusion. The CHST component of BCAP is analyzed in the cumulative impacts section.
Minnesota	Jim	Kleinschmit	Other	Other	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> P 36 Cooperating Agencies NRCS should be added to the list for their role in designing and approving conservation plans for every non-forest BCAP contract.</p>	Comment noted.

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Minnesota	Jim	Kleinschmit	Other	Other	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> To move forward BCAP quickly but in a way that would be of least risk to the environment prior to establishment of the final rule, we recommend the following initial priorities:</p> <ul style="list-style-type: none"> <li>•Issue a draft rule as soon as possible, to allow early 2010 project selection.</li> <li>•Focus BCAP on establishing new biomass crops for new biomass facilities.</li> <li>•Focus BCAP exclusively on perennial feedstocks.</li> <li>•Fund a variety of projects with a variety of feedstocks and varying scales, selected for their strong contribution to environmental benefits. Use the new Conservation Measurement Tool created by NRCS for the Conservation Stewardship Program to evaluate feedstock options.</li> <li>•Establish carbon sequestration as a priority within the program's parameters, and prioritize project support based on carbon sequestration potential.</li> <li>•Require rigorous conservation plans and forest stewardship plans.</li> <li>•Exclude commodity crop residues from both the BCAP CHST program and the BCAP projects.</li> <li>•Refocus the BCAP CHST program on new biomass supplies, not supplies that were already flowing freely into the market.</li> </ul>	FSA will take this comment under consideration during the formulation of the rulemaking.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Minnesota	Jim	Kleinschmit	Other	Other	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> In our opinion, the final PEIS should contain a science-based evaluation of potential environmental impacts of different types of biomass production, particularly evaluating relative impacts of different feedstocks on soil and water quality, wildlife and biodiversity, and climate considerations. According to CEQ guidance, the primary purpose of an environmental impact statement (EIS) is to “provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment” (40 CFR 1502.4). This draft PEIS clearly does not do that.</p> <p>Instead, this draft PEIS avoids nearly all of the important questions about how BCAP should be run to maximize establishment of the most environmentally beneficial crops and minimize support for biomass crops that may harm the environment. Most of the information presented is general information that is not analyzed or interpreted in regard to how different types of biomass development might be beneficial or harmful. We would suggest major revisions, except that well over a year has already been wasted since enactment of BCAP. Considering the urgency of introducing BCAP support, we instead feel it would be better at this point to proceed with sensible rules and implementation, and ignore the useless alternatives and mitigation presented in this document.</p>	<p>This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. THIS PEIS is not meant to be a detailed document applicable to a specific location since the geographic scale of potential BCAP Project Areas encompasses the entire U.S. and its territories. Rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected. Therefore site specific evaluations would be conducted for individual proposed BCAP Projects Areas prior to approval. BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits and project specific stipulations and mitigations will be developed. After the site review and the identification of potential environmental impacts a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.</p>
Washington	Nathaniel	Lawrence	Other	Other	<p><b>NATIONAL RESOURCE DEFENSE COUNCIL:</b></p> <p>We find, however, that the DPEIS contains neither adequate comparative information on potential impacts nor a sufficient range of alternatives to allow the public, sister agencies,</p>	<p>This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. THIS PEIS is not meant to be a detailed document applicable to a specific location since the geographic</p>

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					government officials, or the ultimately the program decisionmaker to make a sufficiently reasoned choice. We therefore ask that the PDEIS be withdrawn and that a significantly revised version circulated for further comment.	scale of potential BCAP Project Areas encompasses the entire U.S. and its territories. Rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected. Therefore site specific evaluations would be conducted for individual proposed BCAP Projects Areas prior to approval. BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits and project specific stipulations and mitigations will be developed. After the site review and the identification of potential environmental impacts a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.
Indiana	Andy	Mahler	Private Citizen	Other	I write in support of the letters submitted to your office by Heartwood, EcoLaw, and Green Delaware regarding the burning of biomass for electricity. thank you	Comment noted. This PEIS focuses on impacts associated with bioenergy crop production and ends at the door to the BCF. Impacts associated with the burning of biomass for electricity is outside the scope of this analysis.
Tennessee	Davis	Mounger	Other	Other	<b>Heartwood, Inc:</b>  Eligible Material Owners: 1.3.2.1 These (NFS) contracts and permits include timber sales contracts, stewardship contracts or agreements, service contracts or permits and other	Comment Noted. The CHST matching payments will be subject to environmental compliance including NEPA compliance for all eligible material removed from Federal lands pursuant to existing Forest Service procedures, Forest Stewardship Plans or



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					applicable Federal land contracts or permits. While timber sale contracts are included under NEPA for public purview, review, comment and the ability to file administrative appeals, and seek remedies, service contracts and Forest Service permits, including special use permits, are normally not. We submit that actions on public lands under this program and that all harvesting and collection of eligible materials should not be exempt from NEPA analysis and review and that the public should be informed and involved in the process.	equivalent for eligible material collected and harvested from private forest land, and Conservation plans and conservation compliance for eligible material collected or harvested from cropland.
Tennessee	Davis	Mounger	Other	Other	<b>Heartwood, Inc:</b> Cooperating Agencies-Forest Service: 1.3.5.3 The Forest Service is directly involved in the BCAP implementation due to the potential for woody biomass to be used as a crop type. We submit that woody biomass either is or is not a crop type. While it may be appropriate for woody biomass to be considered a crop type on private lands, it is not appropriate for public lands. Woody biomass should not be considered a crop type on public lands since the value of forested public lands for clean air, pure water, soil retention and creation, and recreation always surpasses the value of any consideration of primary crop and crop rotation, resulting in degradation of these values.	Public lands are ineligible for establishment and production for the BCAP Project Area provision. Please refer to Section 2 for a discussion on the statutory requirements of the program including land types eligible and ineligible for a BCAP Project Area.
Tennessee	Davis	Mounger	Other	Other	<b>Heartwood, Inc:</b> Federal Permits, Licenses and other Entitlements: 1.3.4.2 USDA USFS Special Use Permit. Normally NFS land is not made available if the overall needs of the individual or business can be met on nonfederal lands. We submit that this is important for all actions on public lands under this program and that all harvesting and collection of eligible materials should adhere to this regulation. It should not be applied only to special use permits. This should be a required part of any application and scoping process, to include but not be limited to timber sales, wildlife openings, fuel load removal and restoration projects.	The CHST provision of BCAP will be subject to environmental compliance including NEPA compliance for all eligible material removed from Federal lands pursuant to existing Forest Service procedures. In addition, public lands are ineligible for the Project Area provision of BCAP. Please refer to Section 2 for a discussion on the statutory requirements of the program including land types eligible and ineligible for a BCAP Project Area.

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Delaware	Alan	Muller	Other	Other	<p><b>Green Delaware:</b> 6. However, the UDSA has <a href="http://www.fsa.usda.gov/Internet/FSA_File/bcapfacilitieslist.pdf">http://www.fsa.usda.gov/Internet/FSA_File/bcapfacilitieslist.pdf</a> with the listed facilities qualified in August and September, 2009. Similarly, the USDA has BCAP Eligible Materials List “ (<a href="http://www.fsa.usda.gov/Internet/FSA_File/bcap_elig_mats_090714.pdf">http://www.fsa.usda.gov/Internet/FSA_File/bcap_elig_mats_090714.pdf</a>). already published a list of “Qualified Biomass Conversion Facilities” (already published a “BCAP Eligible Materials List “ (<a href="http://www.fsa.usda.gov/Internet/FSA_File/bcap_elig_mats_090714.pdf">http://www.fsa.usda.gov/Internet/FSA_File/bcap_elig_mats_090714.pdf</a>).”</p> <p>7. Many other program details have been published and some of these are posted at <a href="http://www.fsa.usda.gov/FSA/webapp?area=home&amp;subject=environment&amp;topic=bcap">http://www.fsa.usda.gov/FSA/webapp?area=home&amp;subject=environment&amp;topic=bcap</a> . This strongly suggests that the program has already been established and the USDA is only carrying out pro forma environmental review after the fact. This does not meet the requirements of NEPA and is very likely to lead to litigation. Therefore, the Dept. of Agriculture should immediately cease implementing the BCAP, withdraw issued program documents, and carry out environmental review of required scope.</p>	<p>The NOFA published on June 11, 2009 for the CHST provision of BCAP was in response to the Presidential Directive issued to the Secretary of Agriculture directing an aggressive acceleration of investment in and production of biofuels. The Presidential Directive requests that the Secretary of Agriculture take steps to the extent permitted by law to expedite and increase production of and investment in biofuel development by making the renewable energy financing available in the 2008 Farm Bill available within 30 days. The CHST matching payments will be subject to environmental compliance including NEPA compliance for all eligible material removed from Federal lands pursuant to existing Forest Service procedures, Forest Stewardship Plans or equivalent for eligible material collected and harvested from private forest land, and Conservation plans and conservation compliance for eligible material collected or harvested from cropland. Additionally, those lessons learned through operation of the CHST matching payment program will be combined with all comments, analysis, and other information and will be applied in rulemaking later this year. Non-discretionary spending-see language from the final PEIS to add to this comment.</p>
District of Columbia	Martha	Noble	Other	Other	<p><b>NATIONAL SUSTAINABLE AGRICULTURE COALITION:</b> The environmental impacts of a BCAP project will depend in great part on the farming system used to produce the biomass feedstocks for the project. NSAC, therefore, recommends that the BCAP PEIS provide environmental assessment of the</p>	<p>This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. THIS PEIS is not meant to be a detailed document applicable to a specific location since the geographic</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>following farming and cropping systems:</p> <p>(a) mixed stands of native perennial crops or forest projects that increase the diversity of tree species in existing forests, with additional uses for crop such as rotational grazing;</p> <p>(b) new annual biomass crops, such as camelina, that are incorporated into resource conserving crop rotations;</p> <p>(c) biomass crop production, both perennial and annual, in organic farming systems; and</p> <p>(d) farming systems with a wide range of production levels.</p>	<p>scale of potential BCAP Project Areas encompasses the entire U.S. and it's territories rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected. Public Comments received on the Draft PEIS were used to develop the Final PEIS Site specific evaluations would be conducted for individual proposed BCAP Projects Areas prior to approval. BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits and project specific stipulations and mitigations will be developed. After the site specific environmental evaluation a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.</p>
District of Columbia	Paul	Noe	Other	Other	<p><b>American Forest and Paper Association:</b> Second, the description of the affected environment and environmental consequences is inadequate, as it does not describe the role of forests and the existing wood using industry in the rural economy or environment.</p>	<p>A description of forestry resources has been included in Section 5, as part of the eligible materials discussion. Federal lands are not eligible for the project areas program for BCAP.</p> <p>Non-agricultural lands are for Alternative 2 is defined as non-industrial private forest land (NIPFL) that could be planted to herbaceous crop species thereby utilizing standard agricultural practices rather than forestry practices to produce a crop. The potential impacts associated with conversion of these</p>

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						lands to dedicated energy crops have been analyzed in the BCAP Final PEIS and determined to be of low probability when compared to conversion of agricultural lands into dedicated energy crops. The economic models utilized for this analysis assumed that non-agricultural lands would not be cost-effectively converted given the lack of infrastructure to those non-agricultural lands in comparison to agricultural lands that could be cost-effectively converted. The overall probability of the conversion of non-agricultural lands would be low given the timeframe and scope of BCAP.
District of Columbia	Paul	Noe	Other	Other	<p><b>American Forest and Paper Association:</b> We respectfully submit that FSA should revise the PEIS and provide an additional opportunity for public comment. The BCAP, if reasonably implemented, can promote renewable energy use in harmony with existing users of biomass. However, for the reasons noted above, the PEIS should be revised to more clearly describe the proposed action, the purpose and need of the PEIS (taking particular care to clarify whether the PEIS is intended to provide NEPA compliance for all aspects of the BCAP), more accurately and fully describe the affected environment and environmental consequences, and more fully disclose potential cumulative impacts. It seems highly irregular that FSA only analyzed the project area portion of BCAP in the</p> <p>PEIS while proceeding to implement the other portion of the program. NEPA applies to all proposed agency actions; an Executive Order may not excuse compliance. In addition, FSA must comply with other federal laws before it implements any portion of this program. Given the large amount of funding anticipated under BCAP, an economic analysis under the Regulatory Flexibility Act would seem required. Also, section 7(a)(2) of the Endangered Species Act explicitly requires</p>	The NOFA published on June 11, 2009 for the CHST provision of BCAP was in response to the Presidential Directive issued to the Secretary of Agriculture directing an aggressive acceleration of investment in and production of biofuels. The Presidential Directive requests that the Secretary of Agriculture take steps to the extent permitted by law to expedite and increase production of and investment in biofuel development by making the renewable energy financing available in the 2008 Farm Bill available within 30 days. The CHST matching payments will be subject to environmental compliance including NEPA compliance for all eligible material removed from Federal lands pursuant to existing Forest Service procedures, Forest Stewardship Plans or equivalent for eligible material collected and harvested from private forest land, and Conservation plans and conservation compliance for eligible material collected or harvested from cropland. Furthermore, if



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					consultation with Secretaries of the Interior and Commerce on “any action authorized, funded, or carried out by such agency.” (Emphasis added.) The PEIS contains no information that FSA has approached the Secretaries.	protected species are present or suspected of being present during the site-specific environmental evaluation then formal consultation with USFWS would be completed and if it is determined that negative impacts to a listed species may occur then it is not likely the land would be approved for inclusion in a BCAP action. Additionally, those lessons learned through operation of the CHST matching payment program will be combined with all comments, analysis, and other information and will be applied in rulemaking later this year.
Wisconsin	Troy	Runge	Other	Other	<p><b>University of Wisconsin:</b> We believe you should consider encouraging the use of agricultural plastic wastes as a binder for certain biofuels for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The agricultural industry uses very large amounts of agricultural plastic.</li> <li>2. Currently, there is very little recycling of any of the types of plastic used in agriculture.</li> <li>3. Plastic films and other plastic wastes generated by agricultural uses can be safely and profitably recycled to energy as a component of biofuel mixtures.</li> </ol>	Comment noted.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Other	<p><b>U.S. Department of the Interior:</b></p> <p>Page 1-4, Section 1.3.2.2 - CHST Matching Payment Program Provisions of the BCAP</p>	The CHST provision of BCAP will be subject to environmental compliance including NEPA compliance for all eligible material removed from Federal lands pursuant to existing Forest Service procedures, Forest Stewardship Plans or equivalent for eligible material collected and harvested from

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>Although FWS lands are not included as a potential source of eligible materials under the statutory definition renewable biomass, we support the requirement that the collection, harvest, storage and transport of eligible materials from public lands must be done consistent with all laws, rules and land management plans applicable to the eligible public lands (National Forest System and Bureau of Land Management public lands).</p> <p>We also support the conditions listed on pages 1-4 and 1-5 for harvest and collection of eligible materials from Tribal, State and private lands.</p>	private forest land, and Conservation plans and conservation compliance for eligible material collected or harvested from cropland.
North Dakota	Keith	Trego	Other	Other	<p><b>Northern Great Plains Working Group:</b></p> <p>Page 1-4, Section 1.3.2.2, CHST Matching Payment Program Provisions</p> <p>The NGPWG supports the requirement that the collection, harvest, storage and transport of eligible materials from National Forest System (NFS) and Bureau of Land Management public lands in accordance with all laws and regulations that apply to the U. S. Forest Service and U.S. Bureau of Land Management. In additions, we support the provisions listed on pages 1-4 and 1-5 for the collection, harvest, storage and transport of eligible materials from Tribal, State and private lands.</p>	The CHST provision of BCAP will be subject to environmental compliance including NEPA compliance for all eligible material removed from Federal lands pursuant to existing Forest Service procedures, Forest Stewardship Plans, or equivalent for eligible material collected and harvested from private forest land, and Conservation plans and conservation compliance for eligible material collected or harvested from cropland
North Dakota	Keith	Trego	Other	Other	<p><b>Northern Great Plains Working Group:</b></p> <p>Page 1-16, Section 1.4.5.1, Current Ethanol Production</p>	Comment Noted. The BCAP was established by the 2008 Farm Bill as a new Title IX energy program. The goal of the new program is to promote the production of cellulosic bioenergy crops that show

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					<p>Facilities</p> <p>The NGPWG supports the recognition that “currently, the majority of ethanol is made from corn but to significantly increase ethanol production, the use of cellulosic feedstock such as agricultural residues, grasses and wood will be needed.”</p>	exceptional promise for producing highly energy-efficient bioenergy or biofuels, and to develop those new crops and cropping systems in a manner that preserves natural resources. In addition, BCAP crops are not to be those that are primarily grown for food or animal feed.
Indiana	Helen	Vasquez	Private Citizen	Other	<p>This letter asks that the DPEIS regarding Forest Biomass for electricity be withdrawn, as it is inadequate.</p> <p>I support the comments of EcoLaw and Green Delaware, attached.</p>	Comment noted.
District of Columbia	Michael	Wach	Other	Other	<p><b>Biotechnology Industry Association:</b> Plants developed through biotechnology, described by USDA as genetically engineered (GE) plants, have played a critical role in improving crop yields and improving the ecological footprint of agriculture over the past decade. The popularity of these crops among U.S. growers cannot be denied. The technologies used to produce these successful row crops will inevitably be valuable in the production of biofuel feedstock beyond commodity crops, as well. For these reasons, it is important that the final PEIS include an accurate and robust discussion of the role of GE plants in commodity production agriculture, as well as in the production of dedicated biofuel crops.</p>	The discussion on genetically engineered plants has been expanded to include this information.
District of Columbia	Michael	Wach	Other	Other	<p><b>Biotechnology Industry Association:</b> First, based on the experiences of BIO member companies, several assumptions in the DEIS are likely quite conservative. Two key drivers of BCAP’s environmental impact are the yield assumptions for prospective dedicated energy crops and future yield improvements assumed for Title I commodity crops – and in</p>	Comment noted.

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					both cases, the FSA's assumptions are very conservative. Continued application of biotechnology and traditional breeding techniques will ensure productivity gains well beyond those assumed in this DEIS. Accordingly, BIO respectfully submits that the land use and environmental impacts from BCAP will be far more modest than those detailed by FSA in this DEIS..	
District of Columbia	Geoffrey	Walsh	Federal Agency/ BLM	Other	<p><b>Bureau of Land Management:</b></p> <p>1) PEIS seems to indicate that FS has dedicated lands that may be exempt from the program while none identified for BLM. I suggest changing by adding BLM in the same sentence (i.e.: Monuments, Wild and Scenic Rivers, etc.</p> <p>2) US FS identified as cooperating agency. By the criteria outlined, BLM should be designated cooperating agency status too.</p> <p>3) Geographic scope of this PEIS is unclear to me. Therefore, opportunity to mitigate losses to wildlife on private land by making improvements to public lands are or difficult to identify.</p>	<p>Per the Proposed Rule for BCAP, BLM lands have been specifically included for the collection of eligible materials; however, lands specifically excluded for the Establishment and Annual Payments Program of BCAP are federal lands. A description identifying those lands as examples has been included.</p> <p>This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. THIS PEIS is not meant to be a detailed document applicable to a specific location since the geographic scale of potential BCAP Project Areas encompasses the entire U.S. and it's territories rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected. Therefore site specific environmental evaluations would be conducted for individual proposed BCAP Projects Areas prior to approval. BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional</p>



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						economic impacts/benefits and project specific stipulations and mitigations will be developed. After the site review and the identification of potential environmental impacts a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.
Oregon	Doug	Heiken	Other	Other/ Additional Language or Clarification Needed	<p><b>Oregon Wild:</b> The DEIS assumes that many acres of annual crops would be converted to perennial switchgrass, with certain ecological benefits associated with that, but it is also possible that existing perennial crops could be converted to annuals, or long-rotation forestry could be converted to short-rotation forestry, with ecological costs associated with that.</p> <p>Please describe and characterize the anticipated conversion of lands from one use to another, so that the public and the decision-maker can get an idea how many acres of specific native ecosystems and specific existing crops are converted to specific different biofuels plantations.</p>	This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. THIS PEIS is not meant to be a detailed document applicable to a specific location since the geographic scale of potential BCAP Project Areas encompasses the entire U.S. and it's territories rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected.
North Dakota	Keith	Trego	Other	Other/ Additional Language or Clarification Needed	<p><b>Northern Great Plains Working Group:</b></p> <p>The NGPWG strongly believes that the PEIS should clearly identify those lands that are ineligible for BCAP by statute such as native sod, lands enrolled in the Conservation Reserve Program, Wetlands Reserve Program, Grassland Reserve Program and Federal and State lands. In addition, the PEIS should also clearly define native sod for the purpose of</p>	Section 2 has been revised to include a section which discusses those definitions applicable to the Project Area provision of BCAP including a discussion of those lands eligible and ineligible for a BCAP Project Area.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					identifying lands that are ineligible for BCAP.	
North Dakota	Keith	Trego	Other	Other/ Additional Language or Clarification Needed	<p><b>Northern Great Plains Working Group:</b></p> <p>Page 1-3, Section 1.3.2.1, Definitions Applicable to the CHST Provisions of the BCAP.</p> <p>The NGPWG recommends the draft PEIS provide definitions for agricultural lands and native sod to clarify and identify land that is ineligible for conversion to biomass crops. The definition should make it very clear that native sod is not construed as pastureland if being grazed by livestock.</p>	Section 2 has been revised to include a section which discusses those definitions applicable to the Project Area provision of BCAP including a discussion of those lands eligible and ineligible for a BCAP Project Area.
District of Columbia	Matt	Hogan	Other	Other/ Additional Language or Clarification Needed s	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>3) There is no definition of “agricultural lands” or “non-agricultural lands” in this document. This is important for the analysis because the no new agricultural lands will be brought into production under the program in alternative 1, and new non-agricultural lands could be brought into production under alternative 2. Without a definition of these terms, exactly how were the environmental impacts analyzed?</p>	Section 2 has been revised to include a section which discusses those definitions applicable to the Project Area provision of BCAP including a discussion of those lands eligible and ineligible for a BCAP Project Area
Tennessee	Davis	Mounger	Other	Other/ Additional Clarification Language Needed	<p><b>Heartwood, Inc:</b> Forest Resources: 1.4.3 Woody biomass are the trees and woody plants, including limbs, tops, needles, leaves and other woody parts, grown in a forest, woodland or rangeland environment, that are by-products of forest management. It should be noted that this definition limits woody biomass to those “trees and woody plants, including limbs, tops, needles, leaves and other woody parts, grown in a</p>	Comment noted. Biomass, including woody biomass, is also limited to those materials, pre-commercial thinnings, or invasive species from National Forest System land and BLM land that would not otherwise be used for higher-value

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					forest, woodland or rangeland environment” that are byproducts of forest management and does not apply to those which are naturally occurring or for naturally diverse forests undergoing natural succession.	products:
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Other/ Additional Language Clarification Needed	<p><b>U.S. Department of the Interior:</b></p> <p>Page 2-1 , Section 2.1.1 - Establishment and Purpose</p> <p>The Final PEIS should clarify that eligible BCAP crop types proposed by USDA and presented in Appendix B is from the list of eligible materials developed for the CHST matching payment program component of BCAP. This is an example of where the statutory prohibition against the use of invasive or noxious plants or any plant that has the potential to be invasive or noxious needs to be noted along with the exclusion of Federal and State-owned land from eligibility in the project areas program component of BCAP.</p> <p>Page 2-6, Section 2.4.1 - Wetlands</p> <p>Not all wetlands are protected under the Clean Water Act or the Wetland Conservation Compliance provisions of the Farm Bill. Unless BCAP prohibits conversion of any type of wetland to a biomass crop, the potential conversion of isolated or prior converted wetlands should receive further analysis. Also note that FSA form AD-1026 states that BCAP participants would not use proceeds from any FSA farm loan, insured or guaranteed, or any USDA cost-share program, in such a way that might result in negative impacts to wetlands, except for those project evaluated and approved by NRCS.</p>	<p>While there is not an official list eligible crops for BCAP it is defined as a crop of renewable biomass and excludes Title 1 crops and noxious or invasive plants.</p> <p>Comment noted. This section has been expanded to include this information.</p> <p>FSA is committed to protecting wetlands when implementing BCAP or any other program and therefore conversion of wetlands to dedicated energy crops is prohibited. Any producer engaging in swampbusting will be ineligible for the program and will be denied all farm program benefits as defined in the Food Security Act of 1985. Language discussing the prohibition of conversion of wetlands to biomass crops has been added to the document. And it will also be addressed during rulemaking.</p>

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District of Columbia	Willie	Taylor	Federal Agency/ DOI	Other/ Additional Language Clarification Needed	<p><b>U.S. Department of the Interior:</b></p> <p>Page 1-3, Section 1.3.2.1. - Definitions Applicable to the Collection, Harvest, Storage, and Transportation (CHST) Provisions of BCAP</p> <p>We recommend the addition of a section on definitions specific to the Project Areas Component of BCAP. Providing definitions for agricultural land and native sod will help clarify the differences between Alternatives 1 and 2 and identify land that is ineligible for conversion to biomass crops. It should be clearly stated that native sod will not be construed as pastureland if it is grazed by livestock.</p>	Section 2 has been revised to include a section which discusses those definitions applicable to the Project Area provision of BCAP including a discussion of those lands eligible and ineligible for a BCAP Project Area.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Other/ Additional Language Clarification Needed	<p><b>U.S. Department of the Interior:</b></p> <p>The summary should clearly identify those lands ineligible for BCAP by statute (i.e., native sod, land enrolled in the Conservation Reserve Program, Wetlands Reserve Program and Grassland Reserve Program as well as Federal and State land) and the environmental compliance requirements that may be applicable on lands to be converted to biomass crops (i.e., highly erodible and wetland conservation requirements).</p>	The Executive Summary has been expanded to include a discussion of those lands eligible and ineligible for a BCAP Project Area and the applicable environmental compliance requirements.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Other/ Additional Language Clarification Needed	<p><b>U.S. Department of the Interior:</b></p> <p>Page 1-10, Section 1.3.5.4 - Fish and Wildlife Service</p> <p>We recommend including the full mission statement for the FWS in the first sentence. The FWS mission statement is "working with others to conserve, protect, and enhance fish, wildlife, plants and their habitats for the continuing benefit of</p>	This section is no longer in the PEIS and therefore does not need to be addressed.



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					the American people"	
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Other/ Additional Language Clarification Needed	<p><b>U.S. Department of the Interior:</b></p> <p>The Draft PEIS should clearly identify situations in which the statutory requirements, exclusions, or limitations of the BCAP affect the environmental analysis. For example, the discussion regarding potential loss 'of forestland or native grasslands under the summary for Alternative 2 (page ES-5) does not mention the statutory exclusion of native sod from eligible land (i.e., native sod is not eligible for conversion to a biomass crop).</p> <p>Some of the statutory requirements for BCAP are described on pages 2-1 and 2-2 of the Draft PEIS, but all applicable requirements need to be clearly identified in the Final PEIS along with a description of how the action alternatives are consistent with these statutory requirements, including prohibitions against the use of invasive and noxious plants, and land eligibility.</p>	Section 2 has been revised to include a section which discusses applicable statutory requirements for the Project Area provision of BCAP including a discussion of those lands eligible and ineligible for the program. Also, in this Section the discussion on the Action Alternatives has been expanded to describe how each of those alternatives are consistent with the statutory requirements of the program.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Other/ Additional Language Clarification Needed	<p><b>U.S. Department of the Interior:</b></p> <p>Throughout the Draft PEIS, the impacts of converting cropland to a biomass crop are described in terms of the impacts of converting cropland to switchgrass, as if switchgrass were the only biomass crop being contemplated for BCAP. The Final PEIS should clarify that switchgrass is but one of many grass species suitable for biomass production and is used as an example to describe potential impacts of similar types of</p>	Comment noted. The BCAP Final PEIS has been revised to analyze impacts of establishing and producing a bioenergy crop from each of the three broad classes of cellulosic energy crops (short rotation woody crops, perennial herbaceous, and annual herbaceous species). Hybrid poplar and willow, switchgrass, and forage sorghum were chosen because they have the most widely available data; it is feasible that they can be established within the time frame of the program, and represent likely energy

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					biomass crops.	crops that would be grown for biofuels across varied regions of the United States.
District of Columbia	Willie	Taylor	Federal Agency/DOI	Other/Additional Language Clarification Needed	<p><b>U.S. Department of the Interior:</b></p> <p>In addition to statutory language, the Final PEIS should describe and incorporate Congressional intent for the program as identified in the Farm Bill Managers Report. Specifically with regard to the suitability of nonindustrial private forest land for BCAP, the Managers Report encourages maintenance of native forests and late successional forest stands, and discourages conversion of native forests to non-forest use. Managers Report also intends that wildlife-related concerns be included in references to "soil, water and related resources. "</p>	Comment noted. Sustainability is a priority component of the project area selection; this has been included in the description of the project areas program.
North Dakota	Keith	Trego	Other	Other/Additional Language or Clarification is Needed	<p><b>Northern Great Plains Working Group:</b></p> <p>NGPWG: The PEIS should clearly identify situations in which the statutory requirements, exclusions, or limitations of the BCAP affect the site-specific environmental analysis. For example, the discussion regarding potential loss of native grasslands under the summary for Alternative 2 (page ES-5) does not mention the statutory exclusion of native sod from eligible land (i.e., native sod is not eligible for conversion to a biomass crop). All applicable statutory requirements need to be clearly identified in the PEIS</p>	Section 2 has been revised to include a section which discusses applicable statutory requirements for the Project Area provision of BCAP including a discussion of those lands eligible and ineligible for the program.
District of Columbia	Willie	Taylor	Federal Agency/DOI	Other/Additional Language or Clarification Needed	<p><b>U.S. Department of the Interior:</b></p> <p>Page 4-4, Section 4.1.2.4 - Assumptions and Data Limitations</p>	Comment noted. This section has been expanded to include this language.

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					The first paragraph states that" ... energy crops like switchgrass, miscanthus and other grasses and crops are eligible ... " The Final PEIS should note that this statement only applies in areas where these grasses are determined by the Secretary, in consultation with other appropriate Federal and State departments or agencies, not to be invasive or noxious, or have the potential to become invasive or noxious. We believe that technical expertise regarding this determination is available through the State Technical Committees and should be made at the State level.	
District of Columbia	Julie M.	Sibbing	Other	Other/Crops Analyzed	<b>National Wildlife Federation:</b> The PEIS looks at a very limited scope of crops for analysis of potential impacts to wildlife. By focusing chiefly on monocultures of switchgrass, the scope of analysis is sorely lacking. In fact there are numerous types of crops and cropping systems that could be supported by the BCAP program, some mentioned in the PEIS, but not analyzed for potential impacts to wildlife. The impacts of each bear individual examination. While it is understandable that not every single potential feedstock be analyzed, the scope should have at least included some of the types of feedstocks for which there is substantial current research and development investment – including miscanthus, energy cane, eucalyptus, mixed natives, etc. The potential impacts of these could be significantly different than switchgrass.	Comment noted. The BCAP Final PEIS has been revised to analyze impacts of establishing and producing a bioenergy crop from each of the three broad classes of cellulosic energy crops (short rotation woody crops, perennial herbaceous, and annual herbaceous species). Hybrid poplar and willow, switchgrass, and forage sorghum were chosen because they have the most widely available data; it is feasible that they can be established within the time frame of the program, and represent likely energy crops that would be grown for biofuels across varied regions of the United States.
District of Columbia	Juliet	Bochicchio	Federal Agency/ USDA	Other/ Editorial	<b>U.S. Department of Agriculture:</b>  Editing Comments:  1- Executive Summary Page ES-5 - No Action Column - Line 4 - change "Would ne be provided" to "Would not be provided"	Comment noted. Where appropriate. the text has been modified.

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					<p>2- Affected Environment Page 3-32 - Paragraph 5 - Line 3 - change "very small are of Kansas" to "very small areas of Kansas"</p> <p>3- Environmental Consequences - Page 4-91 - Paragraph 4 - Line 7 - change "will not like be" to "will not likely be"</p> <p>4-Environmental Consequences - Page 4-92 - Paragraph I - Last Line - Add"." at end of sentence.</p> <p>5) Executive Summary ES-3 - Alternative 1- 8 lines from bottom "Alternative I would "effect" and use changes only at the local level"</p> <p>6) Executive SummaryES-5 - Alternative 1- 10 Lines from bottom - "grasslands "do" not extend to them."</p> <p>7) Affected Environment - Page 3-27, 3.4, I Definition of the Resource Change "To analysis the potential for affects to soil quality" to "To analyze the potential for affects to soil quality"</p>	
District of Columbia	Matt	Hogan	Other	Other/ Editorial	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>(Section 6.3 on page 6-1 &amp; 2) This paragraph switches from discussions about BCAP to a discussion about acres enrolled in CRP. This appears to have been cut and pasted from another document without even changing all of the program references. The CRP and BCAP are different programs with different goals.</p>	Comment noted. Where appropriate, the text has been modified.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Other/ Editorial	<p><b>U.S. Department of the Interior:</b></p> <p>Page ES-3, Socioeconomic and Land Use Resources -</p>	Comment noted. The BCAP Final PEIS has been revised to analyze impacts of establishing and producing a bioenergy crop from each of the three broad classes of



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>Alternative 1</p> <p>The reference to switch grass as a dedicated energy crop is just one example and should be identified as such by placing an "e.g.," before the example and adding another example, such as other native perennial grasses, in the parentheses. This change would be consistent with the crop examples at the beginning of the sentence.</p>	cellulosic energy crops (short rotation woody crops, perennial herbaceous, and annual herbaceous species). Hybrid poplar and willow, switchgrass, and forage sorghum were chosen because they have the most widely available data; it is feasible that they can be established within the time frame of the program, and represent likely energy crops that would be grown for biofuels across varied regions of the United States.
District of Columbia	Julie M.	Sibbing	Other	Other/Impacts from cropping systems.	<p><b>National Wildlife Federation:</b></p> <p>The largest potential impacts of the program – on biodiversity, wildlife, soil and water, would come from conversion of native systems to monoculture cropping systems. While there is some discussion of conversion of pasture lands to switchgrass monocultures, the document fails to adequately examine conversion impacts, especially with regard to forests. We are led to conclude that such conversions are not being contemplated in the BCAP rules, since no real assessment has been conducted on the potential impacts.</p>	Although non-industrial private forestland is considered eligible land under BCAP, conversion of native forests to non-forest use is prohibited under BCAP under Alternative 1. During the site-specific environmental evaluation the most suitable use of the land will be considered and native forests along with late successional forest stands will be maintained. Please refer to Section 2 for the discussion on the statutory requirements of the program including land types eligible and ineligible for a BCAP Project Area.
North Dakota	Stephen	Adair	Other	Other/Site Specific Environmental Evaluations	<p><b>Ducks Unlimited:</b></p> <p>DU: Dear Sirs:</p> <p>DU appreciates the opportunity to provide comments on the draft PEIS for BCAP, a program that we feel has the potential to have significant impacts on fish and wildlife resources in the Northern Great Plains. Whether the impacts are positive, negative, significant, insignificant, local, regional or national in scope depends on the types of biomass crops that are planted, where they are planted, how they relate to other types of land use in the area and how and when they are harvested and</p>	Comment noted. FSA will take this comment under consideration during the formulation of the rulemaking.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>managed.</p> <p>General Comments</p> <p>Since little research has been conducted to date that assesses the impacts of biomass crops on wildlife resources, we appreciate the commitment by the Farm Services Agency (FSA) to require site-specific environmental evaluations before BCAP project area proposals are approved. The site-specific evaluations will be critical in assessing the local and regional impacts that the proposed BCAP project will have on wildlife habitats and populations. DU believes that site-specific environmental evaluations for BCAP project area selection should focus on assessing the direct and indirect changes to land use that will occur as a result of the BCAP project and the impacts those land use changes will have on wildlife populations, particularly grassland-dependent birds. Site-specific evaluations should also strongly consider the impacts of proposed biomass harvest and management strategies on local and migratory wildlife resources. In addition to the site-specific evaluations, once BCAP project areas have been approved, the requirement that program participants develop a Conservation Plan or Forest Stewardship Plan that complies with NEPA and all other applicable state and federal laws is critical to ensuring that potential adverse impacts to our soil, water, air and wildlife resources are minimized and benefits are realized. We commend FSA for recognizing and including this requirement.</p>	
New York	Gary	Shiavi	Private Citizen	Proposed Action	<p>NEPCO purchases sawdust and shavings for conversion into cat litter and animal bedding. Since we do not process this biomass into energy or energy-based products, this program will have a severe negative impact to our ability to compete with operations such as wood pellet plants for the purchase of our raw materials.</p>	Comment noted.

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					<p>NEPCO has been in operation for over 50 years and over that time has processed millions of tons of biomass. Ironically, we have always considered ourselves a "green" business as we manufacture products from wood by-products. Our cat litter brand is much less energy intensive to manufacture than clay-type litters. In addition, we have been using some of the wood by-product we purchase for fuel to heat our dryers and buildings and have done so for 30 years. However, we may now potentially be forced out of business due to an inability to compete for raw materials.</p> <p>Given the above, I would request that companies such as ours with a history of biomass utilization be classified as BCFs so that we are not unfairly affected by the program as proposed. In a time of falling employment with job stimulus programs in effect, consideration for NEPCO and its 75 employees should be made.</p> <p>Gary Schiavi - President, NEPCO</p>	
North Dakota	Stephen	Adair	Other	Proposed Alternatives	<p><b>Ducks Unlimited:</b></p> <p>The PEIS should clearly identify situations in which the statutory requirements, exclusions, or limitations of the BCAP affect the site-specific environmental analysis. For example, the discussion regarding potential loss of native grasslands under the summary for Alternative 2 (page ES-5) does not mention the statutory exclusion of native sod from eligible land (i.e., native sod is not eligible for conversion to a biomass crop). All applicable statutory requirements need to be clearly identified in the PEIS along with a description of how the action alternatives are consistent with these statutory requirements, including prohibitions against the use of invasive and noxious plants, and land eligibility. Alternative 2 appears inconsistent with the statutory description of eligible land (i.e., agricultural and nonindustrial private forest lands), since it allows</p>	Section 2 has been revised to include a section which discusses applicable statutory requirements for the Project Area provision of BCAP including a discussion of those lands eligible and ineligible (i.e., native sod) for the program.

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					conversion of new non-agricultural lands to biomass crops.	
California	Brendan	Cummings	Other	Proposed Alternatives	<p><b>Center for Biological Diversity:</b> In short, we believe that the draft PEIS is woefully deficient and fails to comply with the mandates of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, et seq., and its implementing regulations. The draft PEIS suffers from, inter alia, the following deficiencies:</p> <ul style="list-style-type: none"> <li>- Failure to disclose and analyze the entire BCAP action, instead focusing only on the Project Areas Program while ignoring the Collection, Harvest, Storage, and Transportation Component (CHST) of the BCAP;</li> <li>- Failure to consider a reasonable range of alternatives;</li> <li>- Failure to distinguish between woody and non-woody biomass in disclosing and analyzing the effects of the proposed action;</li> <li>- Failure to distinguish between public and non-public lands in disclosing and analyzing the effects of the proposed action;</li> </ul> <p>The BCAP draft PEIS fails to meet the spirit or letter of NEPA's requirements. As an initial matter, the draft PEIS fails to clearly articulate what "action" it is attempting to analyze. At various points the draft PEIS asserts that it is analyzing the entire BCAP, proposed regulations to implement the BCAP, and/or only the Project Areas Program of the BCAP.</p>	Comment noted.



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Washington	Kevin	Godbout	Other	Proposed Alternatives	<p><b>Weyerhaeuser:</b></p> <p>We support Broad BCAP Implementation as noted in Alternative 2. Alternative 2 would enable anyone who meets the basic eligibility requirements as outlined in the 2008 Farm Bill provisions governing BCAP to participate in a BCAP project area. In addition, existing BCFs and crops would be supported including small and pilot BCFs and all bio-based products derived from eligible materials would qualify under this alternative.</p>	Comment noted.
District of Columbia	Matt	Hogan	Other	Proposed Alternatives	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>8) With the lack of information on what the direct and indirect impacts are, Alternative 1 is a much more prudent approach to delivering the program. This largely due to the need to restrict this program to current agricultural crop production lands until information on the actual impacts is available to make a real environmental analysis for. Delivering BCAP in a targeted and smaller scale manner will allow for actual research to determine what the direct and indirect impacts on wildlife and the environment are, and to develop appropriate mitigation approaches and program limitations if it is to be expanded in the next Farm Bill. Claiming that both alternatives are essentially the same does not clearly recognize the level of uncertainty given the lack of quantified research on this subject, and is purely subjective depending on the assumptions of those completing the analysis.</p>	Comment noted.
District of Columbia	Matt	Hogan	Other	Proposed Alternatives	<p><b>The Association of Fish and Wildlife Agencies:</b></p> <p>We have several concerns with the PEIS. The provision in Alternative 2 that would allow “new non-agricultural lands” to</p>	Section 2 has been revised to include a section which discusses applicable statutory requirements for the Project Area provision of BCAP including a discussion of those lands eligible and ineligible (i.e. native sod)

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					<p>be enrolled in the program is especially problematic for the following reasons:</p> <ul style="list-style-type: none"> <li>-the Farm Bill law identified that native sod could not be enrolled in this program;</li> <li>-the Farm Bill Conference Report specifically identified the program should discourage conversion of non-cropland to monoculture biomass crops through BCAP;</li> <li>-there is no clear definition within the PEIS of what constitutes “agricultural lands” and “non-agricultural lands in this analysis, without clear definitions it is impossible to determine accuracy of what is provided.</li> </ul>	for the program.
California	Gregory	Ikonen	Other	Proposed Alternatives	<p><b>Mendel Biotechnology:</b> Specifically, Mendel supports adoption of Alternative 2 with the following additional elements: Targeted number of projects of various sizes in diverse geographies. Focused use of BCAP payments to participants in approved BCAP project areas.</p> <p>BCAP program criteria. Allow release of CRP lands for BCAP projects. Limit BCAP payments for Title I crop residues to 25% of the qualifying eligible biomass used by a BCF.</p> <p>Structure opportunity cost payments to favor use of underperforming land. Advanced biofuels requirements.</p>	Comment noted.
Minnesota	Jim	Kleinschmit	Other	Proposed Alternatives	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b></p> <p>In regard to the overall comment process, we are concerned that our input on the proposed scope for this PEIS, including the proposed preliminary program alternatives, along with the</p>	Comment noted.

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					input of many interested organizations, was completely ignored in drafting this PEIS. The two “alternatives” did not change but were left as is, as arbitrary contrasts, neither of which was contemplated in the enabling legislation of BCAP. We continue to believe that each alternative would be illegal under the language enacted into the BCAP law in 2008. We certainly hope that the input being collected on this draft EIS will in fact be used to revise the final PEIS.	
Washington	Nathaniel	Lawrence	Other	Proposed Alternatives	<b>NATIONAL RESOURCE DEFENSE COUNCIL:</b> We find, however, that the DPEIS contains neither adequate comparative information on potential impacts nor a sufficient range of alternatives to allow the public, sister agencies, government officials, or the ultimately the program decisionmaker to make a sufficiently reasoned choice. We therefore ask that the PDEIS be withdrawn and that a significantly revised version circulated for further comment.	Comment noted.
Washington	Nathaniel	Lawrence	Other	Proposed Alternatives	<b>NATIONAL RESOURCE DEFENSE COUNCIL:</b> The DPEIS is also marred, fatally, by the absence of reasonable alternatives. As it notes, BCAP is unlikely to be fully funded. Therefore, USDA will need to make discretionary choices about what and how much to fund. Exercise of that discretion could and should be guided by information about how different eligibility and mitigation requirements would affect the environmental consequences of program implementation. Alternatives meriting study include eliminating all support for biomass burning, restricting eligibility to sources meeting the Energy Independence and Security Act of 2007 sustainability standards (not just advanced biofuels), and prohibiting sourcing from sensitive lands like Wetland and Conservation Reserve Program enrollments. Because the flaws in the DPEIS run too deep to allow for informed comment on the central issues facing USDA in this process, NEPA requires circulation of a new or revised DPEIS. We look forward to	Comment noted.

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					reviewing and commenting on one as soon as it becomes available. Thank you for considering our views.	
Virginia	David	Lee	Other	Proposed Alternatives	<p><b>Eden Space Systems Corporation:</b> We respectfully submit the following general comments and specific suggestions regarding the adoption of Alternative 2.</p> <p>Limit matching payments to pilot and demonstration size facilities – BCAP’s goal is to help develop biomass sources not currently in production at large acreage, hence the mandate that not more than 20% of the payments be made for crop residues from crops that are entitled to commodity payments under the 2008 Farm Bill. Given this focus on new feedstocks, Edenspace believes it is important to qualify a large number of bioconversion facilities in as many states as possible to evaluate the performance of a dedicated, perennial energy crop candidates across diverse geographic and climatic conditions, as well as to educate and familiarize growers across the country with the agronomic and economic aspects of the crops. Additionally, a larger number of small projects will be more likely to provide economic opportunities in rural and developing regions of the United States. To encourage the rapid adoption of biomass crops, existing Biomass Conversion Facilities (BCFs) should be eligible for BCAP payments as long as they meet the BCAP requirements described on page 2-5 of the DEIS. Otherwise, the utilization of the biomass generated from the adoption of these new crops could be delayed while new BCFs are built.</p> <p>If FSA chooses to provide payments to commercial scale facilities, given ongoing environmental and sustainability issues associated with biofuel production, BCAP projects should be limited to land within 25 miles of the commercial scale bioconversion facility. This will create incentives to utilize</p>	Comment noted.



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					<p>high-yielding feedstocks, which will reduce land required (addressing concerns over indirect land use change effects) and reduce emissions from transport of biomass to the BCF.</p> <p>Need for matching payments beyond two years – The 2008 Farm Bill authorizes matching payments for biomass purchased by bioconversion facilities only for two years. Dedicated perennial energy crops typically provide useful harvest for ten or more years but often require several years to reach maximum harvest tonnage. Given the potential long-term economic and environmental benefits of using these crops, and the likelihood that producers and biomass conversion facilities will enter into long-term supply contracts, Edenspace urges FSA to use its agency authority to provide payments over a longer period of time and to communicate with Congress the importance of the BCAP program to extend funding at least through 2015. This additional time will help provide potential producers with the necessary certainty over the life of a supply contract to encourage their involvement. However, to best support Congress's intent,</p> <p>BCAP payments should only be made when the biomass is utilized for the production of biofuel or bioenergy, and not other bioproducts as described in the DEIS on page 2-5.</p>	
Tennessee	Davis	Mounger	Other	Proposed Alternatives	<p><b>Heartwood, Inc:</b> Range of Alternatives: There exists no alternative that combines the range and scope of Alternative 1 (2 commercial and 5 demonstration BCFs) that places their locations outside of the 50 mile radius parameter of public lands. This would result in an alternative which would remove public lands from the sourcing areas of these BCFs and focus the project exclusively on private lands. Only Alternative 1 has the potential of doing this but, in and of itself, it is insufficient to address our concerns.</p>	Comment noted. The analysis was performed using a 50-mile radius as the established standard for cost-effective transportation of existing biomass crops to biomass conversion facilities.

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Tennessee	Davis	Mounger	Other	Proposed Alternatives	<p><b>Heartwood, Inc:</b> The “broad scope” of Alternative 2 does not allow a sufficient PEIS review, as the vagueness or absence of specific parameters does not allow any meaningful analysis. Therefore, it should be categorically dismissed.</p> <p>Thank you for receiving our comments. Please keep us informed on any subsequent action taken regarding this program.</p>	Comment noted.
Delaware	Alan	Muller	Other	Proposed Alternatives	<p><b>Green Delaware:</b> 2. The use of “biomass” for production of liquid fuels and as chemical synthesis feedstocks should be strictly limited to situations that have been fully evaluated as to short-term climate impacts and long-term sustainability, and objectively determined to be climate-beneficial and sustainable. The Biomass Crop Assistance Program (BCAP) as described in the Programmatic Environmental Impact Statement (PEIS) lacks such provisions and therefore should not be implemented. Or, if a statutory requirement, it should be implemented to the minimum legally possible extent.</p> <p>3. Therefore, in terms of the alternatives discussed in the (very inadequate) PEIS, we prefer the “no action” alternative.</p> <p>8. To some extent it seems to be claimed that the present PEIS is only applicable to the “Project Areas Program component.” (Abstract). However, this appears to be a fiction in the sense that no other environmental review is in the record, and the title of the document is “Biomass Crop Assistance Program,” not “Project Areas Program” component of same. This is not acceptable and an EIS of adequate scope is required.</p> <p>10. We request that the PEIS be revised and provided again</p>	Comment noted.

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					<p>as a draft for public comment.</p> <p>Concluding, the present draft PEIS is inadequate as it stands as a basis for further action. The USDA should prepare another draft EIS and present it for another cycle of public comment. These comments are limited and do not include all concerns. If they raise any questions please feel free to contact us.</p>	
District of Columbia	Martha	Noble	Other	Proposed Alternatives	<p><b>NATIONAL SUSTAINABLE AGRICULTURE COALITION:</b> 1. NSAC's major concern with the Draft PEIS is its over-simplified and contrived framework for two Action Alternatives -- Alternative 1 based on "targeted implementation" for a wide array of factors and Alternative 2 based on "broad implementation" of these factors. Instead of lumping these factors into two mutually exclusive "targeted" and "broad" alternatives, the PEIS should consider each factor separately on its own merits. An alternative for implementing BCAP which best meets the legislative intent for BCAP and has the highest environmental and conservation values will combine factors implemented in a "targeted" fashion with other factors implemented in a "broad" fashion.</p> <p>Instead of an all-or-nothing Alternative 1 approach or Alternative 2, the BCAP PEIS should address the alternatives for implementation of each individual factor separately with the potential environmental impacts for each point considered separately. For example, the BCAP PEIS would do an environmental assessment of funding only large commercial biomass facilities versus a BCAP focus on small and pilot biomass conversion facilities, as well as an environmental assessment of including in BCAP a mix of scales for BCFs. It will then be up to USDA to consider this environmental assessment for each factor separately and then select a mix of factors for proposed alternatives to implement BCAP, with the goal to implement BCAP framework that best meets the</p>	FSA will take this comment under consideration during the formulation of the rulemaking.

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					legislative intent of Congress and minimizes environmental impacts.	
District of Columbia	Paul	Noe	Other	Proposed Alternatives	<p><b>American Forest and Paper Association:</b> Second, while the PEIS proposes two action alternatives, it does not state which alternative the agency prefers. Beyond these concerns, the proposed action description should be more helpful in determining the likely impacts of the BCAP. It is not informative to describe the proposed action as implementing the project areas portion of the program. The proposed action should describe, in meaningful details, how the agency intends to carry out the requirements of section 9011. The proposed action is described in such general terms that it is unclear which of the proposed action alternatives is preferred by the agency. Moreover, as discussed below, given the concrete steps taken in recent weeks by FSA to approve Biomass Conversion Facilities (BCF's) and to make matching payments to eligible material provides, it is not clear how the proposed Action Alternatives in the PEIS relate to the actual implementation of the matching payments portion of the program. We also note that whether the PEIS is intended to provide NEPA analysis for the matching payment program, or whether that portion of BCAP will have its own NEPA analysis, the recent NOFA and granting of payments appear to constitute an "irrevocable commitment" of Federal resources that will allow some impacts on the environment prior to completion of any environmental analysis. Most courts have found these sorts of commitments to be a violation of NEPA, and these actions may be violations of other laws as well, such as the Endangered Species Act.</p>	<p>Section 1502.14(e) of NEPA requires the section of the EIS on alternatives to "identify the agency's preferred alternative if one or more exists, in the draft statement, and identify such alternative in the final statement. This means that if the agency has a preferred alternative at the Draft EIS stage, that alternative must be labeled or identified as such in the Draft EIS. If the responsible federal official in fact has no preferred alternative at the Draft EIS stage, a preferred alternative need not be identified there.</p> <p>Section 2 has been expanding to include a full discussion on the actions required for carrying out the Project Area Establishment and Annual Payments Program component of BCAP&gt;</p> <p>CHST –NOFA simply made funds available and provided guidance in accordance with a statutory mandate and was non-discretionary. The CHST component has provided data for FSA to make on-going decision about the program in the proposed rule for the entire BCAP program.</p>



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District of Columbia	Paul	Noe	Other	Proposed Alternatives	<p><b>American Forest and Paper Association:</b> Fourth, we also believe the PEIS does not consider all reasonable alternatives to the proposed action, particularly since the proposed Action Alternatives do not include what appears to be the actual interpretation of the BCAP at this time. We strongly recommend that FSA, as part of a revised PEIS, analyze at least a third alternative that reflects the apparent actual implementation of the matching payments portion of the program. We recommend that such an alternative include reasonable provisions to ensure sustainable forest management, including potentially the requirement for BCAP project areas to include basic sustainability safeguards, such as ensuring that BCAP project areas produce wood fiber that (1) is obtained using a wood fiber procurement system that is third-party certified to a standard specifying responsible procurement practices; or (2) the wood fiber is procured from lands third party certified to a sustainable forest management system; or (3) the wood fiber is procured within a state with high levels of compliance with best management practices for soil and water protection, according to data maintained by applicable state forestry or agricultural agencies. In order to ensure that BCAP implementation does not produce large shifts in land use, the restriction of 25% enrollment for cropland on a county basis should be retained in this third alternative.</p>	Comment noted. The proposed rule for BCAP provides sustainability as one of the fundamental criteria for project area selection and for the CHST component of eligible materials.
	Thomas	Robb	Other	Proposed Alternatives	<p><b>Abengoa Bioenergy:</b> The draft PEIS asks groups to comment on three alternatives:</p> <p>Not implementing BCAP – we encourage USDA to implement this program. In fact, we would encourage USDA to allow a pilot project to be established close to our Hugoton facility yet this year. Establishing a crop could easily take two years and, more importantly, we need to have a feedstock to process in our plant when it is operational in two years. We would also like to see the program limited to dedicated qualified biomass</p>	FSA will take this comment under consideration during the formulation of the rulemaking.

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					conversion facilities. In addition, we feel it is very important that there not be payment caps in this program as this will allow the targeting of large farming operations that will be able to produce biomass more efficiently.	
District of Columbia	Julie M.	Sibbing	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> As we stated in our earlier comments, NWF is puzzled by the two alternatives selected for review. The differences between the alternatives seem arbitrary and do not have any basis in the statute. Neither alternative works for implementation of the program in a satisfactory manner.	Comment noted.
District of Columbia	Julia M.	Sibbing	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> NWF is generally, quite disappointed in the scope and quality of the BCAP PEIS. We do not understand why Geo-Marine Inc. did not respond to the many comments on the Amended Notice to Prepare an Environmental Impact Statement for the Biomass Crop Assistance Program (BCAP) pointing out that the alternatives selected for review in the PEIS were inappropriate, inadequate, and contained options not legally allowed under the statutory language. The result is a PEIS that fails to examine the areas within USDA's discretion to implement the program, where potential environmental impacts are the greatest – such as whether to allow conversion of native forests to short rotation woody plantations and whether to allow the use of annual crops or only perennial crops. Furthermore, the environmental analysis that is included in the PEIS is inadequate, riddled with oversimplifications, factual errors, and faulty assumptions.	Comment noted.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Proposed Alternatives	<b>U.S. Department of the Interior:</b>  Alternative 2 appears inconsistent with the statutory	New non-agricultural lands, under alternative 2 is defined as non-industrial forest land that could be planted to herbaceous species, thereby utilizing standard agricultural

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					description of eligible land (i.e., agricultural and nonindustrial private forest lands), since it allows conversion of new non-agricultural lands to biomass crops.	practices, rather than forestry practices to produce a crop. Non-industrial forest land is considered eligible land under the statutory requirements of BCAP.
North Dakota	Keith	Trego	Other	Proposed Alternatives	<p><b>Northern Great Plains Working Group:</b></p> <p>NGPWG: All applicable statutory requirements need to be clearly identified in the PEIS along with a description of how the action alternatives are consistent with these statutory requirements, including prohibitions against the use of invasive and noxious plants, and land eligibility. Alternative 2 appears inconsistent with the statutory description of eligible land (i.e., agricultural and nonindustrial private forest lands), since it allows conversion of new non-agricultural lands to biomass crops.</p>	New non-agricultural lands, under alternative 2 is defined as non-industrial forest land that could be planted to herbaceous species, thereby utilizing standard agricultural practices, rather than forestry practices to produce a crop. Non-industrial forest land is considered eligible land under the statutory requirements of BCAP.
North Dakota	Stephen	Adair	Other	Proposed Alternatives/ Other/ Additional Language or Clarification is Needed	<p><b>Ducks Unlimited:</b> Page ES-3, Socioeconomic and Land Use Resources – Alternative 2</p> <p>New non-agricultural lands would be allowed to be enrolled in BCAP. Such language ignores the statutory requirement for eligible lands that excludes native sod from being eligible for conversion to a biomass crop. Applicable statutory requirements, exclusions or limitations should be clearly identified and described in the appropriate action alternatives.</p>	New non-agricultural lands, under alternative 2 is defined as non-industrial forest land that could be planted to herbaceous species, thereby utilizing standard agricultural practices, rather than forestry practices to produce a crop. Non-industrial forest land is considered eligible land under the statutory requirements of BCAP.
North Dakota	Keith	Trego	Other	Proposed Alternatives/ Other/ Additional Language or Clarification is Needed	<p><b>Northern Great Plains Working Group:</b></p> <p>NPGPWG: Page ES-3, Socioeconomic and Land Use Resources – Alternative 2</p> <p>New non-agricultural lands would be allowed to be enrolled in</p>	New non-agricultural lands, under alternative 2 is defined as non-industrial forest land that could be planted to herbaceous species, thereby utilizing standard agricultural practices, rather than forestry practices to produce a crop. Non-industrial forest land is considered eligible land under the statutory

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					BCAP. Such language ignores the statutory requirement for eligible lands that excludes native sod from being eligible for conversion to a biomass crop. Applicable statutory requirements, exclusions or limitations should be clearly identified and described in the appropriate action alternatives.	requirements of BCAP.
Idaho	Virginia	Aulin	Other	Purpose and Need	<b>Boise Inc:</b> In summarizing the purpose and need for the proposed action in Chapter 1, the PEIS fails to recognize the complete extent of the current uses of woody biomass for energy production and how this impacts availability for new uses. In discussing Biomass Conversion Facilities (Section 1.4.5, pgs. 1-15 through 1-17), it appears that many biomass conversion facilities currently existing in the forest products industry are not considered. These omissions raise concerns that the PEIS is not a thorough evaluation of the impacts of Action Alternative 2 beyond crops.	The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.  As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.
Minnesota	Jim	Kleinschmit	Other	Purpose and Need	<b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> P 43 Agricultural Resources. It is baffling that you do not describe the environmental hazards of crop residue removal, the water and soil impacts of annual biomass crop production, nor the benefits of mixed native species perennial plantings. Without such consideration and review, this section absolutely failed to meet its intended need.	Section 5 contains a discussion of the use of crop residues as an eligible material for CHST as part of the cumulative impacts discussion.
District of Columbia	Paul	Noe	Other	Purpose and Need	<b>American Forest and Paper Association:</b> I. The Purpose and Need Section of the PEIS is Confusing, Poorly Developed, and Leads to a Flawed Analysis of the BCAP.	Section 1 (Section 1.1) has been revised to clarify that the BCAP PEIS focuses solely on impacts associated with implementation of the Project Area Establishment and annual payment component of BCAP. An overview



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					The PEIS states that it “is being prepared by FSA to assess the potential environmental impacts of alternatives for administration and implementation of the Project Areas Program component of the BCAP.” (BCAP PEIS p. 1—1, emphasis added). Yet, the PEIS goes on to restate the key provisions of the June 11, 2009 Notice of Funds Availability (74 FR 27767, the “NOFA”) for the matching payments portion of the program (BCAP PEIS pp. 1—3 to 1—5). It is not clear why the PEIS includes these references, and, moreover, it is not clear whether the PEIS purports to satisfy NEPA for the matching payments portion of the program. FSA should clarify whether the PEIS is intended to provide adequate NEPA analysis for the Project Areas portion of the BCAP, the matching payments portion, or both.	of the existing BCAP component, CHST Matching Payment program is provided in section 1.3.2 and the impacts of the existing BCAP Program (CHST) combined with the action alternatives for the Project Area component is analyzed in Section 5, cumulative impacts.
District of Columbia	Paul	Noe	Other	Purpose and Need	<b>American Forest and Paper Association:</b> It is important to note that the restatement of the essential elements of the matching payments NOFA contains a number of problems and one key inaccuracy. The PEIS includes a definition of “biobased CHST product” (PEIS p. 1—4). The definition of biobased CHST product does not include the NOFA’s exclusion of “commercially produced timber, lumber, wood pulp or other finished wood products.” However, in the glossary (p. 11 – 1), the definition of “biobased CHST product” is restated in its entirety, including the exclusion of “commercially produced timber, lumber, wood pulp or other finished wood products”. The exclusion element of this the definition has no basis in the underlying statute and should not be included in any portion of the program. In any event, FSA should be consistent in its use of the definition in the PEIS.	Comment noted.
District of Columbia	Paul	Noe	Other	Purpose and Need	<b>American Forest and Paper Association:</b> The PEIS further states that for non-industrial private forests, matching payments will be made only for eligible material removed “in accordance with applicable Forest Stewardship Plans” (BCAP	Per the proposed rule for BCAP it now makes clear a forest stewardship plan or the equivalent. This has been changed in the PEIS.

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					PEIS p. 1—5, Sec. 1.3.2.2). The PEIS repeats this statement in the discussion of mitigation measures (BCAP PEIS p. 6—1). This limitation is not found in the statute. See section 9011(c). The BCAP NOFA correctly states that eligible material may come from NIPF lands covered by FSP's or "privately owned land,... including ...non-industrial forest land where biomass collection and harvesting is done within applicable environmental requirements, and all applicable Tribal, State or local ordinances and permits" (74 FR 27769). The PEIS contains no explanation for the forest stewardship plan limitation, and it appears to be an oversight. In any event, both portions of the BCAP program should more clearly include sustainable forest management practices.	
District of Columbia	Paul	Noe	Other	Purpose and Need	<p><b>American Forest and Paper Association:</b> The purpose and need section describes the biomass industry (BCAP PEIS pp. 1—10 to 1—17), but contains some significant flaws. Primarily, the PEIS relies upon a 2005 study conducted by the U.S. Department of Energy and USDA which estimated the feasibility of a 1-billion dry ton supply of renewable biomass. Relying on the "billion-ton study," the PEIS suggests "the amount of forestland-derived biomass that can be sustainably produced is approximately 368 million dry tons annually in the U.S. from logging residues and fuel treatment thinning" (BCAP PEIS pp. 1—13 to 1—14). This, and other elements of the billion ton study, ignored several major issues. First, much of this renewable biomass may not be economically recoverable, even with the \$45/ton subsidy provided by the matching payments portion of BCAP. Second, a great deal of the biomass "supply" described by the billion-ton study is in fact already consumed by existing users of renewable biomass. For instance, 98 million tons of wood residues (in the form of spent pulping residues and solid wood residuals from sawmills and other wood products facilities) estimated as part of the supply in the billion-ton study are already consumed on-site for combined heat and power. Further, the PEIS appears to</p>	<p>FSA will take this comment under consideration during the formulation of the rulemaking.</p> <p>The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.</p> <p>As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					presume that a great deal of forest residue can be removed with no significant ecological impacts. Forest management systems in use for decades in the United States have usually left large amounts of these residues in place, or recycled nutrients directly into forest ecosystems through prescribed burning. We urge FSA to consult the literature regarding the role of coarse woody debris in forest ecosystems before finalizing assumptions regarding the availability of forest residues as part of the discussion of BCAP.	
District of Columbia	Paul	Noe	Other	Purpose and Need	<b>American Forest and Paper Association:</b> First, we believe the purpose and need statement should be clarified, for two reasons: First, it is unclear whether the PEIS is intended to apply to project areas portion of the BCAP, the matching payments portion, or both. AF&PA believes that this confusing description of the purpose and need is at the root of many other problems with PEIS. At several places throughout, it is apparent that FSA presumes that BCF's will always be located in a project area, and that all deliveries of renewable biomass to BCF's will qualify for matching payments. Further, the universe of potential BCF's seems to be presumed to only include existing or potential future ethanol biorefineries and pellet fuel plants. These mistaken presumptions and unclear purpose and needs create fatal flaws in the PEIS.	<p>The purpose and need statements have been further defined to more specifically relate to the Project Area component of BCAP. For this part of BCAP, each project area will contain a BCF to which biomass from producers within the project area would deliver biomass resources. Existing biorefineries were used as a proxy for a future BCFs utilizing biomass from dedicated energy crops since data was available for those facilities.</p> <p>In Section 5, the CHST program is discussed as part of the cumulative impacts of BCAP, since the CHST was allowed through the NOFA. For CHST, BCFs include any facility that has been qualified by the USDA FSA.</p>
District of Columbia	Paul	Noe	Other	Purpose and Need	<b>American Forest and Paper Association:</b> Finally, the description of Biomass Conversion Facilities (Section 1.4.4, pp. 1—15 to 1—17) is incomplete, and does not clarify the purpose and need for the PEIS. The PEIS seems (both here and throughout) to presume that a BCF means either an existing or planned ethanol facility or a pellet fuel plant. As noted above, FSA is approving BCF's pursuant to the BCAP NOFA, and as of September 18, 2009, has approved 29	The biomass conversion facility, as defined in the statute is a facility that converts or proposes to convert eligible material into heat, power, biobased products, or advanced biofuels. The overall purpose of BCAP is to assist agricultural and forest land owners and operators with the establishment and production of eligible crops including woody biomass in selected project area for

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					biomass conversion facilities ranging from stand-alone biomass power plants to wood pellet plants and a wide variety of other facilities. Section 1.4.5 in particular seems to inadequately describe the universe of BCF's, which should include existing wood, pulp, and paper product facilities.	conversion to bioenergy. As such, it was determined that facilities associated with the project areas program would produce a bioenergy product, such as liquid fuels of CHP.
District of Columbia	Paul	Noe	Other	Purpose and Need	<b>American Forest and Paper Association:</b> We are also concerned by the definition of "woody biomass" used by the PEIS: "Woody biomass are the trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland environment, that are the byproducts of forest management" (BCAP PEIS p. 1—13). While certainly some woody biomass is in fact a byproduct of forest management, USDA itself is intimately involved in research and demonstration work with Short Rotation Woody Crops (SRWC), and the PEIS itself states that these will be one of the two "major types" of BCAP eligible crops.	Biomass has been more precisely defined in the proposed rule, discussed in Section 1.4.
Florida	Russell	Spitz	Other	Purpose and Need	<b>Vision Power Systems</b>  1.4.5.1 Currently, a majority of ethanol is made from corn but to significantly increase ethanol production the use of cellulosic feedstock such as agricultural residues, grasses, and wood will be needed. Using biomass to produce heat and power has been around for hundreds of years and requires no new BCAP assistance over and above the already existing in place marketplace.  Providing BCAP to existing pellet plants or bagasse burning facilities does not in any way; "develop an economically viable cellulosic bioenergy industry to significantly increase advanced biofuels." Nor does it add to rural employment as the employment is already in place.	Comment noted.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					BCAP funds should be applied to "the best-qualifying project proposals that develop an economically viable cellulosic bioenergy industry to significantly increase advanced biofuels."	
	Thomas	Robb	Other	Recreation	<p><b>Abengoa Bioenergy:</b></p> <p>Recreation - We agree that the impacts to recreation involving wildlife are small locally.</p>	Comment noted.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Resources Considered but Eliminated from Analysis	<p><b>U.S. Department of the Interior:</b></p> <p>Page 2-8, Section 2.4.9 - Other Protected Resources</p> <p>We disagree with the conclusion that because BCAP eligibility is limited to private lands, there "is no potential for impacts" to other protected lands including Federal or State wildlife refuges. We believe that the changes in land use and management that create the potential positive and negative impacts on various resources described for BCAP lands in the Draft PEIS can also impact resources on lands adjacent to or nearby lands affected by actions on BCAP lands. The potential impacts on these lands should be analyzed in the Final PEIS, including mitigation measures to reduce the risk of biomass crop escape from converted land and the risk of adverse impacts to fish and wildlife that will use both converted lands and conservation lands.</p>	This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. This PEIS is not meant to be a detailed document applicable to a specific location since the geographic scale of potential BCAP Project Areas encompasses the entire U.S. and it's territories rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected. Therefore site specific environmental evaluations would be conducted for individual proposed BCAP Projects Areas prior to approval. BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits and project specific stipulations and mitigations will be developed. After the site review and the identification of potential environmental

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
						impacts a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.
North Dakota	Keith	Trego	Other	Resources Considered but Eliminated From Analysis/ Wetlands	<p><b>Northern Great Plains Working Group:</b></p> <p>Page 2-6, Section 2.4.1, Wetlands</p> <p>The NGPWG disagrees with the decision to eliminate wetlands from detailed analysis in the PEIS. All wetlands are vital for wildlife and aquatic resources, flood control and protection of drinking water and deserve detailed analysis. The statement that “wetlands are protected by the Clean Water Act (CWA)” is false. Only navigable waterways are currently protected by CWA. Isolated wetlands, which make up the majority of wetland habitats in the U.S. and millions of acres of prairie pothole wetlands in the U.S. Prairie Pothole Region of North Dakota, South Dakota, Montana, Minnesota and Iowa, are not protected by CWA and could be significantly impacted by the BCAP.</p>	Wetlands are not eligible for the program and are therefore are not considered in this analysis. In addition, site specific environmental evaluations would be conducted for individual proposed BCAP Projects Areas prior to approval. BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits. If
North Dakota	Stephen	Adair	Other	Resources Eliminated from Analysis	<p><b>Ducks Unlimited:</b> Page 2-6, Section 2.4.1, Wetlands</p> <p>DU disagrees with the decision to eliminate wetlands from detailed analysis in the PEIS. All wetlands are vital for wildlife and aquatic resources, flood control and protection of drinking water and deserve detailed analysis. The statement that “wetlands are protected by the Clean Water Act (CWA)” is false. Only navigable waterways are currently protected by CWA. Isolated wetlands, which make up the majority of wetland habitats in the U.S. and millions of acres of prairie pothole wetlands in the U.S. Prairie Pothole Region of North Dakota, South Dakota, Montana, Minnesota and Iowa, are not protected by CWA and could be significantly impacted by the</p>	This PEIS is a programmatic document that analyzes the potential broad impacts associated with implementing the Project Area provision of BCAP. This PEIS is not meant to be a detailed document applicable to a specific location since the geographic scale of potential BCAP Project Areas encompasses the entire U.S. and it's territories rather it is prepared as part of a process to include the public early in the development of the program and to assist the FSA in establishing processes and procedures to ensure that the environment is protected. Therefore site specific

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					BCAP.	environmental evaluations would be conducted for individual proposed BCAP Projects Areas prior to approval. BCAP eligibility is conditioned upon analysis of a variety of location specific impacts on potentially affected resources such as wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits and project specific stipulations and mitigations will be developed. After the site review and the identification of potential environmental impacts a separate NEPA analysis may be required at the local level which may tier off of or incorporate by reference this PEIS as appropriate.
Virginia	John	Bradfield	Other	Socioeconomics and Land Use	<p><b>Composite Panel Association:</b></p> <p>Upon reviewing the section of the EIS on GHG that begins on page 4-77 of the draft EIS, we noted an oversight that was not considered. It is an understandable oversight given the focus of the analysis in the draft, which does not consider whether BCAP could inadvertently cause industrial raw materials that would normally be used to create composites to be instead used as biomass fuels.</p> <p>It is important that the BCAP guidelines are adequately crafted such that bioenergy producers do not crowd composite panel producers out of the market for industrial wood residuals.</p>	<p>The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.</p> <p>As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.</p>
Idaho	Virginia	Aulin	Other	Socioeconomics and Land Use	<p><b>Boise's Inc:</b> Given the current competition for bio-fuels, Boise is concerned with any program that might result in the inequitable provision of artificial competitive advantages to suppliers or producers of woody biomass. While the Project</p>	The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>Area Program is primarily agricultural and crop based, the PEIS fails to thoroughly examine the effects of bio-fuel assistance for woody biomass on existing biomass conversion facilities, such as pulp and paper mills.</p> <p>From our review of the PEIS, Boise believes that the socioeconomic and environmental impacts of the entire BCAP program on existing producers of renewable energy have not been fully examined. It's important that the program promote renewable energy while not unintentionally creating disadvantages for those who already use woody biomass and produce renewable energy.</p> <p>The forest products industry is one of the largest producers and users of renewable biomass energy in the world. Wood fiber is the key component in the production of our paper and packaging products and we also use it to produce renewable energy for our operations. It is a very efficient process.</p> <p>As a business, all we expect is a level playing field to compete within. We are thus concerned with the prospect of having to compete for our biomass feedstock against subsidized entities. If programs are developed that have unintended effects on feedstock prices and supply, they could threaten our industry's ability to operate and generate renewable energy, ultimately reducing, rather than promoting, the use of renewable biomass for energy. It is our position that the current PEIS fails to adequately evaluate the unintended impacts of the Project Area Program on the natural supply/demand balance of our nation's raw woody biomass, as discussed in more detail below.</p>	<p>FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.</p> <p>As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.</p>
Idaho	Virginia	Aulin	Other	Socioeconomics and Land Use	<p><b>Boise Inc:</b> Section 4.1.4 (page 4-21) states that forest residues "would make a significant portion of the feedstock supply..." and that Alternative 2 would cause land-use shifts, particularly among the major crops. There is no evaluation of</p>	<p>An analysis of potential land use changes to SRWC was developed. This analysis used existing cropland and hayland as the basis for lands most likely to shift into production</p>



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					any effects on the use of forest lands or timber resources. It is possible that these land-use shifts may also affect current purchasers of woody biomass and their generation of renewable energy.	of dedicated energy crops based on existing infrastructure. Non-industrial private forest land (NIPFL) with existing tree cover would be accepted into the program only with existing tree cover in place, with new practices receiving annual payments. NIPFL that has been harvested for timber production can be established into SRWC, but conversion into a non-woody dedicated energy crop would be based on producer projected returns after the investment in infrastructure and establishment costs to produce herbaceous crops, which would not be currently in place.
Idaho	Virginia	Aulin	Other	Socioeconomics and Land Use	<p><b>Boise Inc:</b> Again, as to indirect impacts, Section 4.1.4.2 (Page 4-31) analyzes payments for certain dedicated energy sources, finding that the subsidies resulting from Action Alternative 2 would “produce effects to producers, which would flow through the rest of the economy as increased economic output and additional employment positions.” However, the PEIS fails to evaluate the extensive existing network of woody biomass producers that may be designated in a project area or how subsidies might immediately shift supply away from current facilities in our industry that are already producing renewable energy. Even woody biomass suppliers and facilities outside of the Project area may suffer indirect impacts to price and supply.</p> <p>The ultimate result may be to damage our industry, which is already heavily involved in the generation of renewable energy. Alternatively, substantial changes to woody biomass availability could force our industry to purchase energy from non-renewable sources.</p>	<p>The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.</p> <p>As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Idaho	Virginia	Aulin	Other	Socioeconomics and Land Use	<p><b>Boise Inc:</b> New Facilities Will Compete for Limited Biomass Supply</p> <p>In Alabama, where we operate our Jackson paper mill, nine biomass facilities have been announced with capacity to consume 3.6 million green tons of biomass in the Southeast region. Further, a recent study regarding wood availability sponsored by the Alabama Forestry Association concludes that the softwood pulpwood growth-to-drain is less than one and the hardwood pulpwood growth-to-drain is one to one. These statistics are based only on existing biomass consumption.</p> <p>In Minnesota, five new facilities have been announced that would consume 4.2 million tons of biomass. All of these projects are located in the same fiber basket as that of our International Falls mill. All announced facilities will consume mill residue, open-market biomass and/or roundwood and woody biomass.</p> <p>In the Pacific Northwest, where Boise operates two paper mills, nine projects have been announced that will consume 2 million tons of biomass. One large 55-megawatt facility just started on line with an annual consumption of 1.2 million green tons.</p>	<p>The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.</p> <p>As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.</p>
District of Columbia	Susan	Bromm	Federal Agency	Socioeconomics and Land Use	<p><b>Environmental Protection Agency:</b></p> <p>The statement in the draft EIS reads in part: ... "the potential impacts of the BCAP program to environment justice populations shall be evaluated in a Civil Rights Impact Analysis (CRIA). We are not familiar with the CRIA; therefore, we suggest that the final</p>	<p>A brief summary of the USDA CRIA program is included to show how USDA meets the letter and intent of EO 12898.</p>

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					EIS discuss how the CRIA meets the intent of E.O. 12898.	
Washington	Kevin	Godbout	Other	Socioeconomics and Land Use	<p><b>Weyerhaeuser:</b></p> <p>The PEIS does not contemplate the unique set of complicated transactions inherent in the woody biomass market. In many transactions, ownership of forest biomass passes from the landowner to a disinterested third party, who then merchandises the wood to a variety of wood products facilities based on a number of factors. In addition, many forest products companies have affiliates, subdivisions or joint ventures that engage in open market transactions to buy and sell biomass, generate heat, and power and produce bio-based products. For instance, a sawmill may sell residuals to a pulp and paper mill that is an affiliated unit within a larger integrated company. Logs and hogged fuel may be sold by the land affiliate to the highest offer, which may coincidentally be a mill owned by the same company. The use of farm cooperatives or other types of business partnerships typically used in the agricultural sector is not a common business practice utilized by the forest products industry.</p>	This is addressed as part of the proposed rule for BCAP
California	Gregory	Ikonen	Other	Socioeconomics and Land Use	<p><b>Mendel Biotechnology</b> believes that FSA's estimate of the amount and availability of agricultural residues for BCAP is overly optimistic, and that far less crop residues will be available for enrollment in BCAP than estimated under Alternative 2. Accordingly, we believe that assumptions in the DPEIS for increases in commodity payments and environmental impacts will be substantially reduced, as more BCAP acreage will be enrolled as perennial energy crops, with far lower water, fertilizer and other input requirements.</p>	The estimation of the crop residues resources available would at the end be significantly influenced by the environmental restrictions that are imposed in their collection. In this case, the only environmental restriction is the reduction of soil erosion.

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					The DPEIS assumes that a majority of the biomass generated under Alternative 2 will come from agricultural crop residues – 100 million tons by 2022 (DPEIS p. 4-31). There is ample scientific literature, however, questioning the amount of crop residue that may be removed from crop land before adverse effects to soil health and erosion, or the need for substantial additional fertilizer application.	
Minnesota	Jim	Kleinschmit	Other	Socioeconomics and Land Use	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> Page 114 Top 5 BCAP Project Sites We object to the criteria used to predict the top BCAP</p> <p>project sites, even though we understand it is merely part of a modeling exercise. Selection criteria for BCAP projects are clearly laid out in the law, and they are largely ignored here, including the most important criteria which is environmental sustainability. This whole economic analysis is useless when Alternative A itself, funding only 2-5 enormous facilities, is rejected, as it should be because it is inconsistent with the goals of BCAP.</p>	Along the introduction of BCAP project is the implicit consideration of sustainability in the production of the feedstock.
Washington	Nathaniel	Lawrence	Other	Socioeconomics and Land Use	<p><b>NATIONAL RESOURCE DEFENSE COUNCIL:</b> Nor does the DPEIS provide any serious analysis of displaced demand for crops. Throughout, it presumes that land will go out of crop production to allow for biomass culture, usually equated</p> <p>with growing switchgrass. By now, however, it is well-established that demand for crops is not so elastic. Not only are the impacts of, for instance, row crops not eliminated when they are replaced by biomass production, their re-emergence elsewhere has additional adverse consequences associated with land conversion. See, e.g., Searchinger, T. et al., 2008, Use of U.S. Croplands for Biofuels Increases Greenhouse Gases Through Emissions from Land-Use Change, Science,</p>	The study shows the impacts in land use and agricultural prices; and the increase in agricultural prices is precisely in response to the fact that agricultural demand is inelastic. The potential impacts in indirect land use were beyond the objectives of the study.



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					319:1238-1240.	
District of Columbia	Paul	Noe	Other	Socioeconomics and Land Use	<p><b>American Forest and Paper Association:</b> In the discussion of environmental consequences, there again is insufficient detail regarding forest resources and related economic factors, particularly in the discussion of socio-economic impact. The use of POLYSIS and IMPLAN models explicitly state that these focus on issues like crop supply, crop demand, livestock supply, and agricultural income. The discussion of economic impacts is focused on BCAP as a tool to establish switchgrass as a feedstock for a 15-million gallon per year cellulosic biofuel refinery. The PEIS states that Short Rotation Woody Crops “are not directly included” in the model uses (BCAP PEIS p. 4—4). No mention is made of traditional forest resources.</p> <p>Further, the PEIS suggests that Action Alternative 2 is modeled based on meeting the Renewable Fuel Standard contained in the Energy Independence and Security Act (EISA) (BCAP PEIS p. 4—6). As noted below, this is another area where cumulative impacts should be more fully described, as it is evident from currently approved BCF’s that at least the matching payments portion of BCAP will be provided for deliveries of renewable biomass at a variety of BCF’s. It is unclear whether the PEIS proposes only to model economic impacts on this basis, or whether the rest of the environmental consequences are premised on this as well.</p>	An analysis of SRWC has been included. Additionally, the analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.
District of Columbia	Paul	Noe	Other	Socioeconomics and Land Use	<p><b>American Forest and Paper Association:</b> The economic analysis of Alternative 1 (limited implementation in a few Project Areas) suggests considerable increase in switchgrass acres in key forested regions, particularly Dillon, SC, Mecklenburg, VA, and Person, NC. The PEIS does not provide</p>	An analysis of potential land use changes to SRWC was developed. This analysis used existing cropland and hayland as the basis for lands most likely to shift into production of dedicated energy crops based on existing infrastructure. Non-industrial private forest

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					any insight as to whether this displaced production would likely be pushed on to currently forested acres. Presumably, given the far larger implementation contemplated under Alternative 2, and far larger price impacts on traditional row crops (15 to 20 percent price increases for corn, wheat, and soybeans, BCAP PEIS p. 4—23), and the expected creation of 30 million acres of energy crops, the potential to place pressure on existing forest is apparently large, but not discussed in terms of its economic impact. The impact of dedicated energy crops, which would have to be taken to BCF's in BCAP project areas, on the free flow of wood in regional markets also is not discussed.	land (NIPFL) with existing tree cover would be accepted into the program only with existing tree cover in place, with new practices receiving annual payments. NIPFL that has been harvested for timber production can be established into SRWC, but conversion into a non-woody dedicated energy crop would be based on producer projected returns after the investment in infrastructure and establishment costs to produce herbaceous crops, which would not be currently in place.
District of Columbia	Paul	Noe	Other	Socioeconomics and Land Use	<b>American Forest and Paper Association:</b> Establishment of a large number of BCAP project areas could require a considerable amount of land. FSA should consider the potential impact of these BCF's on existing users of the same or similar feedstock. Studies have shown that the use of woody biomass to create forest products (including associated renewable energy production) can provide more jobs and economic value than using biomass solely to produce energy. For example, a study commissioned by the Confederation of European Paper Industries estimated that the pulp and paper industry in Europe directly created six jobs for every job created by the energy alternative, and the ratio rises to 13:1 if total employment (direct and indirect) is considered. Another study concluded that there is a 4- fold to 10-fold greater value to the economy (product value, plus associated workers' purchasing power) from producing paper rather than burning wood for electricity alone (The Best Use of Wood" Thorp, B.A, and Masood Akhtar, Paper 360, January/February 2009). The potential disruption of jobs in these higher-value industries should be incorporated into FSA's analysis of the environmental consequences of both Action Alternatives.	The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.  As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.

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District of Columbia	Paul	Noe	Other	Socioeconomics and Land Use	<p><b>American Forest and Paper Association:</b> The PEIS does not adequately describe the affected environment, particularly the role of forests as part of the rural landscape and the rural economy. Section 3.1, Socioeconomics and Land Use, defines the socioeconomic resource in agricultural terms, examining “net farm income” and “Farm Prices,” direct agricultural support payments by the Federal government, the number of farms, rural population, cover crops (BCAP PEIS pp. 3—1 to 3—6). FSA should show that they considered factors such as the number of forest landowners, the average size of the landholding, trends in forest cover, and overall value of wood delivered at the mill gate.</p>	Forestry resources are detailed within the cumulative impacts Section.
	Thomas	Robb	Other	Socioeconomics and Land Use	<p><b>Abengoa Bioenergy:</b> Socioeconomic and Land Use Resources</p> <p>We encourage targeting the program, at least initially, to target scarce USDA resources to helping establishing a feedstock for Biomass Conversion Facility BCF. Perfecting the program, rather than expending to anyone who meets the basic eligibility requirements, should be an immediate priority.</p> <p>We believe it will cost \$250 to \$280 an acre to establish a feedstock that will yield three to four tons per acre, when established. Quality seed needs to be used to reach that three to four ton an acre yield. We expect seeds costs to be at least \$75 per acre and as high as \$150 to \$200 per acres. The following are estimates of establishing a feedstock:</p> <p style="text-align: center;"> -----+----- </p> <p style="text-align: center;">               Cost \$/Acre     </p>	FSA will take this comment under consideration during the formulation of the rulemaking.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					-----+-----    Practice   DrylandCRP land    -----+-----   Land Preparation   0 to 1550 to 75    -----+-----   Seed cost   75 to 10075 to 100    -----+-----   Chemical cost   15 to 750 to 75    -----+-----   Chemical   6 to 246 to 24    application      -----+-----   Planting Cost   20 to 2520 to 25    -----+-----   Fertilizer   15 to 4015 to 40    -----+-----   Total  131 to 279166 to 339	



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p> -----+----- </p> <p>Feedstocks production should be promoted in an area that is economical viable for the Biomass Conversion Facility (BCF). As mentioned, we expect to harvest almost all of our biomass in a 50 mile circle of the BCF. Payments for collection, harvesting, storage and transporting should be limited to eligible material delivered to biomass conversion facilities included in a BCAP area as we believe anything outside of a 50 mile radius is uneconomical feedstock.</p> <p>Native prairie and farmland that has never been farmed should not be eligible for this program. We believe enough land is available in a 50 mile radius that native prairie does not need to be broken for this program; If native prairie is to be protected, then we encourage USDA not to cap the program at 25% of cropland in a county;</p>	
District of Columbia	Michael	Wach	Other	Socio-economics and Land Use	<p><b>Biotechnology Industry Association:</b> Moreover, BIO believes that FSA's estimate of the required funding for the more expansive BCAP implementation examined in the DEIS (Alternative 2) will likely prove prohibitive, resulting in a more targeted and focused implementation of this alternative – thereby further reducing the program's impacts from those set forth in this DEIS</p>	The final impact of BCAP will indeed dependent on the level of final funding, but also the strategic use of the limited funds.
Oregon	Doug	Heiken	Other	Soil Quality	<p><b>Oregon Wild:</b> Biodiverse landscapes are thought to capture and store carbon better than monocultures.</p> <p>The analysis of effects of forestland and cropland management should be carried out several rotations, so that effects on soil carbon storage are captured and reflected in the analysis.</p>	Comment noted.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Minnesota	Jim	Kleinschmit	Other	Soil Quality	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b> Page 87 Soil Carbon Sequestration The assertion that perennial crops would maximize carbon storage in the soil should be emphasized. It is also noted that vast improvements to stopping erosion, sedimentation, and polluted runoff come from perennial vegetation. This should guide BCAP crop selection toward perennials and away from annuals and residues from annuals.</p> <p>Similarly page 89 points out the virtues of perennials versus annuals or annual residues in regards to surface water quality and groundwater quality.</p>	It is noted in the PEIS the potential problems with residue removal compared to growing as dedicated energy crop, especially a perennial. The crops involved that are eligible will be required to meet normal environmental guidelines as established by NRCS.
Tennessee	Davis	Mounger	Other	Soil Quality	<p><b>Heartwood Inc:</b> Climate Change - Soil Carbon Sequestration: 3.4.2.3 The PEIS fails to consider the effects that climate change is likely to have on carbon sequestration. Soils contain twice the amount of carbon found in the atmosphere, and three times more carbon than is stored in all the Earth's vegetation (Jones, T. Oct 2006, The Scoop On Dirt Why We Should all Worship the Ground We Walk On, Emagazine.com). Given that climate change could increase soil loss by 33% to 274%, depending on the region (O'Neal, M. et al. 2005. Climate change impacts on soil erosion in Midwest United States with changes In crop management, Catena 61:165-184), and the increased sedimentation and erosion of biomass sourcing areas, the ability of soils to sequester carbon would be significantly reduced and impaired by any woody biomass sourcing on public lands.</p>	Climate change issues are considered outside the realm of this analysis for implementation of BCAP.
Tennessee	Davis	Mounger	Other	Soil Quality	<p><b>Heartwood Inc:</b> Soil Quality: 3.4 - In forests as well as farms, erosion is happening ten to twenty times faster than the rate topsoil can be formed by natural processes (Pimentel, David. Feb 2006. Soil Erosion: A Food and Environmental Threat.</p>	The potentially negative effects of residue removal are clearly discussed and referenced now in the cumulative effects section. The amount of residue that can be removed and maintain soil quality should be

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>Journal Environment, Development and Sustainability.). Soil forms an integral part of the environment. All plants depend on it as a reserve of nutrients for healthy functioning, thus making soil essential for the production of food, crops, forests, maintaining biodiversity and for the landscape. Major nutrients contained in fertile soil are phosphorous, potassium, nitrogen, calcium, magnesium and sulfur. Dissolved, they are taken up through the roots of plants, incorporated into plant biomass and finally returned to the soil when plants die or shed.</p> <p>The forest desperately needs its own source of biomass to regrow and be healthy. If take the dead trees out we are reducing the health and thereby the carbon soaking potential of the next forest. Indeed as others have noted the declining forest might have as much to do with a merely a less healthy woods due not only or even necessarily because of global warming but because we humans took one, two, three or more round of timber out thereby making a less and less healthy ecosystem, just a like garden that is never fertilized, one that gets sick, susceptible to pests, and finally fails miserably.</p> <p>Logging slash left to decompose on site is not wasted wood. It provides an excellent source of carbon and nutrients for forest soil, badly needed after the extraction of large quantities of biomass in the form of logs. Tree tops in particular are very rich in nutrients. If logging slash is used for green energy, it may give rise to the "vacuum cleaner" effect. Instead of going into a site and hauling out logs, timber operators would be encouraged to "vacuum" up and remove all woody material. Chipping trees for electric power generation is a terrible, low value waste of a resource that should be treated as precious. Forest land is far more valuable unused than it is if used for wood chips.</p> <p>Bioenergy production from forests and forest residues can affect the naturally balanced nutrient cycles leading to degradation of soil fertility. Removing nutrients when trees are</p>	<p>accomplished with the use of NRCS guidelines for erosion protection, etc. The use of soil amendments to replace corn stover would already be in place with the use of soil testing etc. to replace any enhanced nutrient losses. Other soil amendments, such as animal manures, etc. are outside the goals of BCAP.</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>harvested especially in the case of rapid-growing soft woods (with low btu content) and complete removal of logging residues ultimately interrupts the natural process by which decomposing plant matter would replenish soil nutrients and effectively makes the soil less fertile. Adverse affects on the community of microorganisms responsible for nutrient cycling or chemical and physical changes in the soil causing nutrients to be converted into compounds less usable to trees also contribute to the decreased soil fertility.</p> <p>The most prudent course, clearly, is to continue to recycle most crop residues back into the soil, where they are vital in keeping organic matter levels high enough to make the soil more open to air and water, more resistant to soil erosion, and more productive" (Sampson, R. 1981. Farmland or Wasteland. A time to choose. Overcoming the threat to America's farm and food future. Rodale Press.).</p>	
Tennessee	Davis	Mounger	Other	Soil Quality	<p><b>Heartwood Inc:</b> Corn Stover: 1-15 Crop residues can be found throughout the U.S., but are primarily in the Midwest because of corn stovers preeminence.</p> <p>Corn stover is a critical part for maintaining soil tilth and fertility. To encourage the removal of this valuable element in farming is to reject one of the few elements of farming that all schools of agriculture agree upon.</p>	The potentially negative effects of residue removal are clearly discussed and referenced now in the cumulative effects section. The amount of residue that can be removed and maintain soil quality should be accomplished with the use of NRCS guidelines for erosion protection, etc. The use of soil amendments to replace corn stover would already be in place with the use of soil testing etc. to replace any enhanced nutrient losses. Other soil amendments, such as animal manures, etc. are outside the goals of BCAP.
Tennessee	Davis	Mounger	Other	Soil Quality	<p><b>Heartwood, Inc:</b> Logging Residue: 1-13. Woody biomass are the trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland environment, that are the byproducts of forest</p>	The potentially negative effects of residue removal are clearly discussed and referenced now in the cumulative effects section. The amount of residue that can be removed and maintain soil quality should be



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>management</p> <p>The soil quality of many of these lands is highly degraded. Some NF districts, especially in the southeast, have experienced 3rd and 4th generation logging regimes in the 100-150 years, and are in bad need of a recharge in humus and topsoil. Stumps, limbs, needles, leaves, etc. are the only source for this. To further deprive these lands of valuable decomposable vegetable matter and nutrients is to further degrade these already depleted soils. Maintaining and sustaining even the current degraded forest quality which will certainly necessitate the call for more expensive applications of commercial fertilizers following logging and replanting of stands. Yet even fertilizers are no replacement for the complex of benefits that a healthy layer of humus/topsoil provides to a healthy and biologically diverse forest.</p>	<p>accomplished with the use of NRCS guidelines for erosion protection, etc. The use of soil amendments to replace corn stover would already be in place with the use of soil testing etc. to replace any enhanced nutrient losses. Other soil amendments, such as animal manures, etc. are outside the goals of BCAP.</p>
District of Columbia	Paul	Noe	Other	Soil Quality	<p><b>American Forest and Paper Association:</b> We concur with FSA's conclusion that "CO<sub>2</sub> taken up and emitted by the growth of crop and forest biomass is hereby considered net zero" because of the rapid cycling from the forest into products and the regeneration of new forests (BCAP PEIS p. 3—27 to 3—28). The description of soil resources (Section 3.4, BCAP PEIS pp. 3—27 to 3—3—34) fails to provide a detailed description of the potential impacts of removal of substantial agricultural and forestry residues for use as renewable biomass. The description of Land Resource Region A (Oregon) (BCAP PEIS p. 3—32), for example, describes topography, rainfall, major rural industries, but does not mention soil types, susceptibility of soils to erosions, or the role of coarse woody debris in forest soil formation. Ironically, this is in the region in which the question of CWD role in ecosystems has been studied extensively when compared to other land resource regions.</p>	<p>The potentially negative effects of residue removal are clearly discussed and referenced now in the cumulative effects section. The amount of residue that can be removed and maintain soil quality should be accomplished with the use of NRCS guidelines for erosion protection, etc. The use of soil amendments to replace corn stover would already be in place with the use of soil testing etc. to replace any enhanced nutrient losses. Other soil amendments, such as animal manures, etc. are outside the goals of BCAP.</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
	Thomas	Robb	Other	Soil Quality	<p><b>Abengoa Bioenergy:</b></p> <p>Soil Resources</p> <p>We agree with the EIS that no significant impact on soil resources would occur from this program, provided that the payments to establish a feedstock accurately reflect the cost of establishing the feedstock.</p> <p>We encourage USDA to consider soil fertility and weed control within the soil resources area. For example, plant nutrient management is going to be vital for land that has spent the past 20 years in CRP. Again, costs to establish a feedstock need to consider current nutrient levels and expect production yields. Warm weather grass production guidelines need to be encouraged.</p>	General guidelines for production of biofuel crops analyzed in this document are included in Section 2. Soil testing of CRP and other land and appropriate general or state specific recommendations for production are noted.
New Mexico	Bryan	Bird	Other	Soil Quality /Air Quality	<p><b>Wild Earth Guardians:</b> The DPEIS ignores the role of the federal forests that will be logged under the DPEIS as a critical "carbon sinks" for their carbon sequestration value. Biomass burning is not carbon neutral nor is the renewability of forest biomass energy straightforward. Forests are complex and depending on climate and other local conditions can take hundreds of years to reach maturity. But power plants need fuel now and will eventually outstrip any excess growth. As the permanent infrastructure for boilers is financed and constructed, we'll be mining our forests for electricity just as we do coal. For carbon neutrality forest conversion must be avoided and then the forest must be managed so as to replace all carbon released by burning for electricity, including energy conversion losses and emissions from harvest, transport, and chipping.</p>	This analysis considers greenhouse gas emissions in the production of bioenergy crops, as this is included within the purview of the proposed program. The analysis does not include an analysis of the burning of biomass materials to create bioenergy. The scope of the analysis is clearly limited to the establishment and production of dedicated bioenergy crops, not the actual production of bioenergy. Overall, the air quality analysis does not consider particulate matter or mercury. This analysis considers emissions associated with establishment of the crop to harvest and transport to the conversion facility. This has been clarified in Section 3.3.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
District of Columbia	Susan	Bromm	Federal Agency	Soil Resources	<p><b>Environmental Protection Agency:</b></p> <p>Agricultural residues are considered the second generation of materials that will be used to develop cellulosic ethanol. These materials are commonly corn stover or other material stalks that are left after the corn crop is harvested. This stover is the material that is currently left in the field as part of the no-till farming program. Corn stover provides organic matter that helps to restore and rebuild the soil. If the corn stover is used for too long a period, soil conditions will deteriorate and these conditions could lead to lessening in total agricultural production. Accordingly, EPA recommends that efforts be made to move more rapidly to the third generation ethanol production use of perennial crops dedicated for cellulosic ethanol production. Alternatively, EPA recommends that the final programmatic EIS evaluate soil amendments to replace the corn stover in agricultural production.</p>	The potentially negative effects of residue removal are clearly discussed and referenced now in the cumulative effects section. The amount of residue that can be removed and maintain soil quality should be accomplished with the use of NRCS guidelines for erosion protection, etc. The use of soil amendments to replace corn stover would already be in place with the use of soil testing etc. to replace any enhanced nutrient losses. Other soil amendments, such as animal manures, etc. are outside the goals of BCAP.
Washington	Nathaniel	Lawrence	Other	Soil Resources/ Air Quality	<p><b>NATIONAL RESOURCE DEFENSE COUNCIL:</b> Wholly assumed away in this fashion are potential impacts to forestlands, where biomass utilization could lead to more intensive forest management, the effects of which are essentially completely ignored in the DPEIS. In addition to adverse consequences for the biota and soil and aquatic systems, thinning forests for biomass may result in net emissions of carbon dioxide for at least 100 years. See Mitchell, R.M., M.E. Harmon, and K.E.B. O'Connell, 2009, Forest fuel reduction alters fire severity and long-term carbon storage in three Pacific Northwest ecosystems, Ecological Applications, 19(3): 643-655).</p>	The potentially negative effects of residue removal are clearly discussed and referenced now in the cumulative effects section. The amount of residue that can be removed and maintain soil quality should be accomplished with the use of NRCS guidelines for erosion protection, etc. The use of soil amendments to replace corn stover would already be in place with the use of soil testing etc. to replace any enhanced nutrient losses. Other soil amendments, such as animal manures, etc. are outside the goals of BCAP.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Virginia	Bud	Watson	Other	Vegetation/ Water Quality and Quantity/Air Quality, Soil Resources	<p><b>Virginia Forest Watch:</b></p> <p>Our initial review of the document with regard to forest resources indicates that that it pays insufficient attention to the potential impacts to forestlands, where biomass utilization could lead to far more intensive forest management. The direct effects of this intensive management are not sufficiently considered in the DPEIS, nor are associated adverse direct, indirect and cumulative impacts regarding biota, soil and aquatic systems, local communities and the emissions of extensive amounts carbon to the atmosphere that is currently sequestered in both the forest biomass and in forest soils. We do not believe the DPEIS gives adequate consideration to these impacts, and in some cases simply ignores them or assumes they will not occur.</p> <p>Because of these flaws in the DPEIS we believe NEPA compliance requires extensive revision and recirculation of a new or revised DPEIS rather than a simple extension of the comment period.</p>	The potentially negative effects of residue removal are clearly discussed and referenced now in the cumulative effects section. The amount of residue that can be removed and maintain soil quality should be accomplished with the use of NRCS guidelines for erosion protection, etc. The use of soil amendments to replace corn stover would already be in place with the use of soil testing etc. to replace any enhanced nutrient losses. Other soil amendments, such as animal manures, etc. are outside the goals of BCAP.
New Mexico	Bryan	Bird	Other	Water Quality and Quantity	<p><b>Wild Earth Guardians :</b> Finally, biomass energy facilities require cooling and enormous amounts of water that becomes polluted and eventually is release again as groundwater. Depending on where a facility is located, water consumption and discharge can be a significant limiting factor. None of these effects are considered in the DPEIS. Public forests are already under an inordinate amount of pressure to produce all things to all people and are recovering from years of severe abuse from resource extraction industries. These forests should not be the object of biomass extraction schemes as they are far more valuable for carbon sequestration, oxygen production, clean water, recreation opportunities, and</p>	This is outside the bounds of the PEIS for BCAP which does not deal with biorefinery issues.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					sanctuary for imperiled plants and animals.	
District of Columbia	Susan	Bromm	Federal Agency	Water Quality and Quantity	<p><b>Environmental Protection Agency:</b></p> <p>The draft EIS discusses impacts to aquatic resources in terms of water quality, but it does not address how bioenergy crops may impact water quality in basins across the United States. In addition, in areas with expanded acreage of row crops due to BCAP, the increase in irrigation and subsequent crop residue removal may also impact surface water or groundwater supplies and enhance salt accumulation problems from irrigation.</p> <p>The potential for water quality impacts due to erosion and pesticide use during establishment of a biomass crop could have a significant impact on water quality. EPA is also concerned about impacts to water quality and quantity, especially near water bodies listed as not meeting water quality standards for nitrogen or phosphorus, or near groundwater recharge areas where aquifer nitrogen levels are high. With the above in mind, EPA recommends that the final EIS expand the discussion of how bioenergy crops will impact water quality and quantity and the potential direct, indirect and cumulative impacts bioenergy crops will have on these water resources.</p>	The draft EIS mentions the role of biocrop production in whether equaling or reducing the amounts of nitrogen and phosphorus use in a number of places. The water quantity issue is more difficult considering the amount of additional land that would go into irrigation is very difficult to predict from modeling and presently the value of the biomass will not usually result in this land being brought into the program. An expanded discussion of the problems of excessive nitrogen and phosphorus in water bodies has been added in Section 3 dealing with the dead zone in the Gulf of Mexico.
Minnesota	Jim	Kleinschmit	Other	Water Quality and Quantity	<p><b>INSTITUTE FOR AGRICULTURE AND TRADE POLICY:</b></p> <p>Page 90 Water Use Quantity The irrigation section lacks clear analysis of what BCAP should do about irrigation. Considering increasing concerns about water availability and use, we advocate no BCAP payments for irrigated biomass, including</p>	Potential irrigation of biomass production under BCAP is legally allowed . A section is present on irrigation and it is thought that very few acres will be affected by BCAP from increased irrigation due to low biomass value and irrigation expense.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					both dedicated energy crops and residues.	
Tennessee	Davis	Mounger	Other	Water Quality and Quantity	<p><b>Heartwood, Inc:</b> Water Quality and Quantity – Surface Water Quality: 3.5.2.1. The PEIS fails to adequately assess the effects of this program on water quality. A large scale biomass plant requires close to a million gallons a day for cooling. Hundreds of thousands of gallons of this water are vaporized in the cooling process. Plant cooling needs and water takings are greatest in the summer when high temperatures already reduce river flows and stress native fish. In addition, impacts of water takings will worsen as climate warming and droughts further stress our rivers and water resources.</p> <p>Biomass operations contaminate local rivers and water supplies. Heavily contaminated ‘boiler water” rinse water gets pumped back into rivers at unnaturally high temperatures. This and all cooling water is taken from nearby sources. To minimize transportation costs, biomass plants are located near their sourcing areas. Therefore, decisions regarding biomass sourcing from national forests would directly impact the very streams and water sources which find their headwaters in those forests.</p> <p>Of course, clearcutting, vegetation clearing and roading which would accompany any biomass sourcing will simultaneously compact and erode soils, increase sediment loss and loads in streams and significantly impair the water quality and temperature of streams on national forest lands. The site specific and cumulative impacts of this program on water quality should be considered both at the programmatic and project level.</p>	This is outside the bounds of the PEIS for BCAP which does not deal with biorefinery issues.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
Delaware	Alan	Muller	Other	Water Quality and Quantity	<p><b>Green Delaware:</b> 15. The discussion of “Water Quality and Quantity” at Sec. 3.5 is far less than adequate in breadth and depth. We concur with the EPA recommendation that “...the final EIS expand the discussion of how bioenergy crops will impact water quality and quantity and the potential direct, indirect, and cumulative impacts bioenergy crops will have on these water resources.” (page 2)</p> <p>16. The revised PEIS draft should consider the information developed by Costello, Griffin, et al in the paper Impact of Biofuel Crop Production on the Formation of Hypoxia in the Gulf of Mexico (Environ. Sci. Technol.Publication Date (Web): August 13, 2009) The abstract of this paper states:</p> <p>“Many studies have compared corn-based ethanol to cellulosic ethanol on a per unit basis and have generally concluded that cellulosic ethanol will result in fewer environmental consequences, including nitrate (NO<sub>3</sub><sup>-</sup>) output. This study takes a system-wide approach in considering the NO<sub>3</sub><sup>-</sup> output and the relative areal extent of hypoxia in the Northern Gulf of Mexico (NGOM) due to the introduction of additional crops for biofuel production. We stochastically estimate NO<sub>3</sub><sup>-</sup> loading to the NGOM and use these results to approximate the areal extent of hypoxia for scenarios that meet the Energy Independence and Security Act of 2007’s biofuel goals for 2015 and 2022. Crops for ethanol include corn, corn stover, and switchgrass; all biodiesel is assumed to be from soybeans. Our results indicate that moving from corn to cellulosics for ethanol production may result in a 20-percent decrease (based 4 output from the Mississippi and Atchafalaya River Basin (MARB). This decrease will not meet the EPA target for hypoxic zone reduction. An aggressive nutrient management strategy will be needed to reach the 5000 km areal extent of hypoxia in the NGOM goal set forth by the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force even in the absence of biofuels, given current production to meet food,</p>	The reduction in potential nitrogen and phosphorus into the Gulf from cellulosic biomass production compared to corn is more fully expanded in the Final PEIS.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>feed, and other industrial needs.”</p> <p>The import of this paper is describe in NOW Daily News, 21 September 2009 in this way: “The push to ramp up biofuel production may reduce oil imports, but it's likely to come at a high environmental cost: It will boost the size of the Gulf of Mexico's dead zone, a huge swath so depleted of oxygen that almost nothing can live there, according to a new analysis.”</p> <p>17. The above information should be fully considered, and the BCAP program, including design and selection of Project Areas, should be carried out so as to ensure that negative water quality impacts do not occur.</p>	
District of Columbia	Paul	Noe	Other	Water Quality and Quantity	<p><b>American Forest and Paper Association:</b> We note that regarding surface water quality (Section 3.5.2.1, pp. 3-34 to 3—35), forested uses generally provide high water quality, and forestry is regarded as a preferred use in watersheds protecting major municipal water supplies. We recommend that FSA consult A century of forest and wildland watershed lessons. (2004, Ice, G.G. and J.D. Stednick [Eds.]. Bethesda, MD: Society of American Foresters) and Compendium of Forestry Best Management Practices for Controlling Nonpoint Source Pollution in North America (2009, Schilling, Erik. National Council For Air and Stream Improvement Technical Bulletin Number 966).</p>	An expanded section on allowed forestry land is being added to the PEIS from POLYSIS analysis.
	Thomas	Robb	Other	Water Quality and Quantity	<p><b>Abengoa Bioenergy:</b></p> <p>Water Quality</p> <p>Feedstock will be produced in the Ogallala aquifer area. This Rule should support and promote feedstocks that are agronomical for this semi-arid region. Water quantity is an</p>	Appropriate practices for feasible and environmentally sound biomass production should be inherent in the management of the biomass crop as indicated by meeting NRCS and other guidelines.



State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>important characteristic to be considered as USDA finalizes the Rule.</p> <p>This area is subject to minimal soil loss from water erosion as farm land is relatively flat, the annual precipitation is low - between 16 to 18 inches per year - and the soil is of a type that readily absorbs water. Again, we encourage the Rule to adhere to the establish conservation standards and guidelines as mentioned in the EIS. For the record like to submit a FAO Corporate Document Repository, Title – Water Harvesting. Link to article is:  <a href="http://www.fao.org/docrep/u3160e/u3160e04.htm#2.2%20water%20requirements%20of%20trees,%20orangeland%20and%20of%20odd">http://www.fao.org/docrep/u3160e/u3160e04.htm#2.2%20water%20requirements%20of%20trees,%20orangeland%20and%20of%20odd</a>. .</p>	
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Water Quality and Quantity	<p><b>U.S. Department of the Interior:</b></p> <p>Page 5-8, Section 5.3.5 - Water Quality and Quantity</p> <p>Agricultural chemicals in the Mississippi River basin are a major contributor to the hypoxic zone in the Gulf of Mexico. The reduction of agricultural chemicals mentioned in this Draft PEIS would be a beneficial cumulative effect. More information on. The nutrient delivery to the Gulf of Mexico is available on the Internet  at:<a href="http://water.usgs.gov/nawqa/sparrow/gulf_findings/">http://water.usgs.gov/nawqa/sparrow/gulf_findings/</a>. Impacts of agricultural chemicals were discussed on page 3-35, first full paragraph, but cumulative impacts are not emphasized.</p>	A discussion of recent information about the problems in the Gulf and figures of extent have been added in Section 3.
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Water Quality and Quantity	<p><b>U.S. Department of the Interior:</b></p> <p>Page 3-34, Section 3.5.1-- Definition of the Resource</p> <p>The discussion of water use is somewhat confusing as the</p>	Section 3.5 has been revised to more clearly detail water use and to include more recent water consumption values.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					<p>numbers and percentages do not clearly distinguish between fresh water and saline water use., or between water that is consumptively used and water that is used and then returned to the environment, such as water used for cooling of then no electric power plants. This confusion of terminology leads to the apparent contradiction between the statement that "of all the water used...74 percent came from fresh surface water" (paragraph 2); and "more than 50 percent of water consumed daily .. is groundwater," (paragraph 3), which adds up to more than 100 percent.</p> <p>Page 3-36, Section 3.5.2.3 -- Water Use/Quantity</p> <p>More recent water use data for the nation will be available in the near future at the USGS website:  <a href="http://water.usgs.gov/watuse/">http://water.usgs.gov/watuse/</a>. Information about these data or the USGS National Water Census is available by contacting Eric Evenson, Coordinator, National Water Census at <a href="mailto:eevenson@usgs.gov">eevenson@usgs.gov</a> or 609-771-3904.</p>	
District of Columbia	Willie	Taylor	Federal Agency/ DOI	Water Quality and Quantity	<p><b>U.S. Department of the Interior:</b></p> <p>In addition the potential indirect and cumulative impacts of land conversion, such as decreased water quality from increased use of fertilizers and water depletions from river systems due to increased irrigation must also be considered.</p>	Comment noted.
District of Columbia	Paul	Noe	Other	Socio-economics and Land Use	<p><b>American Forest and Paper Association:</b> The FSA should consult with the USDA Forest Service and improve the description of the forested environment by analyzing, at a minimum, the socioeconomic factors which describe private forest ownerships mentioned above, and discuss at a minimum recent status and trends in forest cover using periodic Forest Inventory and Analysis reports for the States selected to</p>	Forestry resources and ownership are included in the discussion of cumulative effects (Section 5) under the Collection, Harvest, Storage, and Transportation section for eligible materials.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					describe each Land Resource Region, or through the interactive Forest Inventory Data Online (FIDO) tool developed by the USDA Forest Service.	
			Foreign Government	Socio-economics and Land Use/CHST	<p><b>Government of Canada:</b></p> <p><b>Solid wood products</b></p> <p>Although lumber is explicitly excluded from the recently published BCAP Eligible Materials List (July 14, 2009), by-products of lumber processing qualify. Such materials explicitly include bark, sawdust, and woodchips. If the CHST program is enacted, producers of these materials will be encouraged to send their wood waste to biomass conversion facilities that qualify for the up to \$45/ton payment, as opposed to using it On site as part of their normal business practices. As presently designed and based on current lumber prices the CHST program will in effect offer a payment that is 25% or more of the market price of lumber to producers that send their waste material to eligible conversion facilities. The incentive to increase lumber output so as to increase CHST payments will result in serious supply distortions in the lumber market.</p>	<p>The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.</p> <p>As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.</p>
			Foreign Government	Socio-economics and Land Use/CHST	<p><b>Government of Canada:</b></p> <p><b>Pulp and Paper Production:</b> Application of the CHST program to pulp and paper is also problematic. While we understand that black liquor (a by-product of the kraft pulp process) will be excluded from eligibility, Canada encourages the United States to apply the same rationale and exclude other by-products of pulping processes as well. All pulping processes produce biomass waste, which is then burned in recovery boilers (chemical pulp processes) or power boilers (mechanical pulp processes) to generate heat and/or electricity.</p>	<p>The analysis includes a review of the potential cumulative effects of the use of existing wood residues derived through production activities at existing facilities. FSA plans to review the data from the initial CHST activities to determine if changes to the program are appropriate at a later date.</p> <p>As part of the proposed rule CCC has proposed the exclusion of wood wastes and wood residues used for higher value products. As such, CCC would exclude from</p>

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					If pulp producers were to receive \$45/ton for their non-liquor waste by sending it to an eligible conversion facility(such as by selling it to another pulp and paper mill),this would subsidize their production by as much as 50% of input fibre costs, which would create a serious distortion in the pulp and paper market.	matching payment eligibility wood wastes and residues derived from mill residues that create residual byproducts that are typically used for higher-value added production.
			Foreign Government	Socio-economics and Land Use/CHST	<p><b>Government of Canada:</b></p> <p><b>WoodPellets:</b> Wood pellet, producers have the option of being either an eligible material owner or an eligible conversion facility. This offers them the choice to benefit from either lower input fibre costs or augmented revenue from pellet sales, a payment of \$45/ton upon pellet sale represents 60%of input fibre costs. As in the previous two situations identified above, this would create a production incentive that could seriously distort markets.</p>	FSA will take this comment under consideration during the formulation of the rulemaking.
			Foreign Government	Socio-economics and Land Use/CHST	<p><b>Government of Canada:</b></p> <p><b>Concerns Regarding the Scale of Payment:</b> It is our understanding that estimates for CHST payments have been, adjusted upward from \$180 million to \$1 billion over two years. We believe this significantly underestimates the likely scale of participation. In terms of eligible material from lumber production alone, payments would be in excess of \$1billion per year. The addition of pellets, pulp and paper residues, and other wood waste sources result in an even larger estimate.</p> <p>Canada is pleased to see the efforts being made to further develop North American bioenergy resources and promote investment in renewable energy that BCAP represents. However, great care should be taken in its design and implementation to ensure that BCAP funds are not misused, causing an unintended subsidy to the forest industry and</p>	FSA will take this comment under consideration during the formulation of the rulemaking.

State	First Name	Last Name	Affiliation	Nature of Comment	Comment	Response
					creating damaging market distortions, as recently occurred in the case of the Alternative Fuel Mixture Credit(\$6426(e)of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)of 2005). As currently designed, Canada is concerned that the CHST component of the BCAP program could result in a similar outcome. The Government of Canada thanks the Farm Service Agency in advance for its full and careful consideration of these comments.	



## **Appendix F: Forest Stewardship Plan Examples**

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This form, which is periodically updated to address new opportunities, is available in PDF and MS Word at the following addresses:

<http://www.cfc.umt.edu/extensionforestry> or [www.mttreefarm.org](http://www.mttreefarm.org)

Owner's Name \_\_\_\_\_

Plan Author (if not owner) \_\_\_\_\_

# Forest Stewardship Plan

## Tree Farm Plan

This forest management plan addresses the health, sustainability, and risk of your forest for both immediate concerns and for long term sustainability and conservation (5-100+ years)



The Montana State University Extension Service is an ADA/EO/AA/Veteran's Preference Employer and Provider of Educational Outreach.

040609

## Montana Family Forest Management Plan

☐ Forest Stewardship

☐ Tree Farm

### Property Ownership

Landowner(s) \_\_\_\_\_  
(and representative, if different)

Mailing Address \_\_\_\_\_

Phone \_\_\_\_\_ E-Mail \_\_\_\_\_

Date of Original Plan Completion \_\_\_\_\_ Revision dates \_\_\_\_\_

### Property Description

Legal property description \_\_\_\_\_

Nearest city or town \_\_\_\_\_ County \_\_\_\_\_

Total ownership acreage \_\_\_\_\_ Total forested acreage \_\_\_\_\_

Is there a home on the property? ☐ Yes ☐ No

Do you reside on the property? ☐ Yes ☐ No

### Record of Verification

Reviewed by a Professional Forest Advisor

Advisor Name \_\_\_\_\_ Phone \_\_\_\_\_

Date of Property Visit \_\_\_\_\_ MU's Verified \_\_\_\_\_ # of Acres Verified \_\_\_\_\_

Approved By \_\_\_\_\_  
(Stewardship Advisor or Tree Farm Inspector Signature)

Forest Landowner(s) Signature(s) \_\_\_\_\_

**Property History**

A brief description of ownership record, past management activities, and development of the ownership.  
(Based on personal knowledge, property records, and local information sources. Also consider what evidence you see on the ground, stumps, skid trails, etc.)

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**Forest Stewardship Goals**

The principal management objectives for the ownership.  
(Refer to worksheet Goals for my Forest Land.)

1. 

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2. 

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3. 

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6. 

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7. 

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8. 

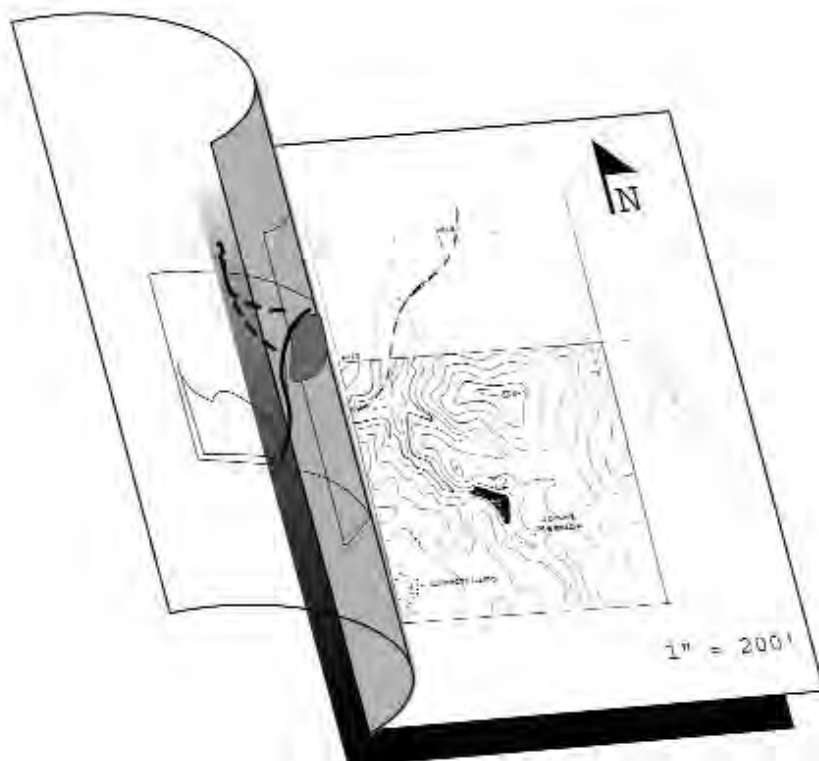
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9. 

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10. 

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## CONTOUR MAP



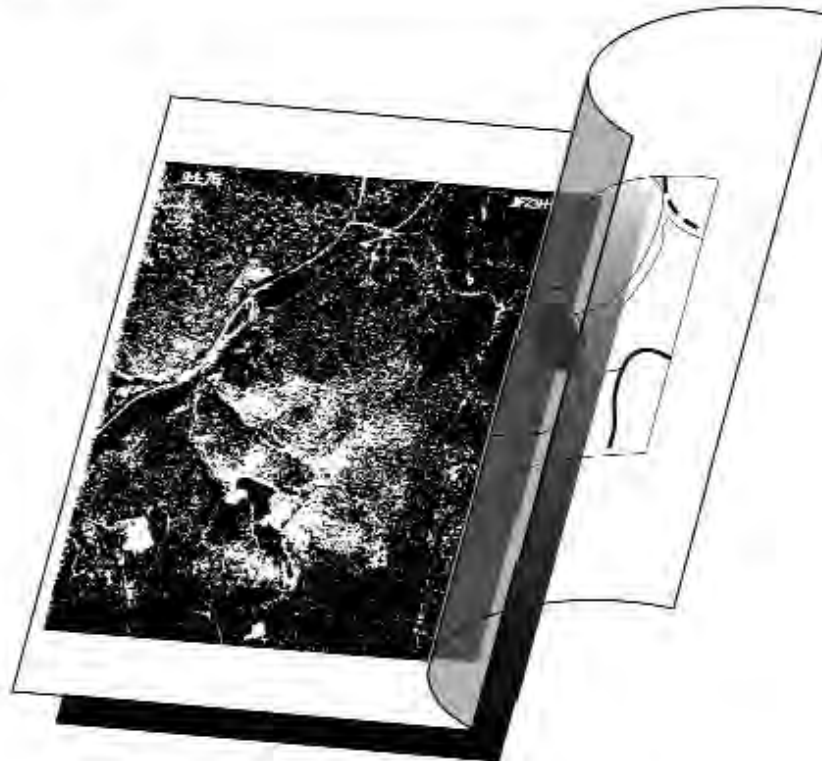
**Attach property map (topographic) here.**

Identify  
Property Boundaries and Management Units  
on transparency.

Include scale (e.g. 1" = 200')  
and  
Directional arrow  
on map.

Maintain a Suite of Units or a Big Estimate for a story

## AERIAL PHOTO



**Attach aerial photograph here.**

Identify  
Property Boundaries and Management Units  
on transparency.

Include directional arrows  
on photo.

**For free aerial photo downloads  
<http://earth.google.com/>**

Map showing a Sample Unit for a Big Horn National Forest

**Basic Property Description**

Average aspect (circle): N S E W Average elevation \_\_\_\_\_

**Basic topography (estimate percent of total acreage that is)**

Complex topography (many steep ravines and aspects) \_\_\_\_\_

Simple topography (few ravines and changes of aspect) \_\_\_\_\_

Percent of land that is Flat (&lt;5% grade) \_\_\_\_\_ Steep Slope (&gt; 20% grade) \_\_\_\_\_

Gentle Slope (&lt; 20% grade) \_\_\_\_\_

Forest Access to vehicles (circle): Excellent (80% accessible) Good (at least 50%)Fair (at least 25%) Poor (less than 10%)

Estimated improved road length (bulldozed with graveled surface) \_\_\_\_\_

Estimated unimproved road length (bulldozed with but original parent material) \_\_\_\_\_

Estimated total permanent skid trail length (drivable but no earthwork) \_\_\_\_\_

Estimated cumulative stream length class I \_\_\_\_\_ class II \_\_\_\_\_ class III \_\_\_\_\_

Are any streams on Montana's Impaired Stream List? Yes \_\_\_ No \_\_\_ Unknown \_\_\_

Check website: <http://www.deq.mt.gov>

Number of unique stands of trees, or management units \_\_\_\_\_

For each stand or management unit, write what your management objectives are and a brief description of the forest management unit and its condition. Use the Management Unit Analysis Form or plot form summary to help with this section.

Unit 1 \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_

\_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Unit 2 \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Description: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Unit 3 \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Description: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Unit 4 \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Description: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Unit 5 \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Description: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Add more pages as needed (additional pages at end)

### Considerations for Forest Enhancement and Protection

Consider the next 5-10 years. MU's may be clumped or listed separately. Identify which MU's considered.

While completing this section, work with Stewardship Plan Implementation Schedule and a map. Complete the Implementation Schedule and draw and label the areas of management on your map.

**Consider:** *What treatments/monitoring/protection do you plan completing?*  
*When will you implement treatments (season, year), follow-up activities, etc?*  
*Where will the management take place; entire unit(s), part of a unit, acres?*  
*How will the management be done?*  
*When and from whom will you seek expert advice?*  
*When will you obtain permits, develop contracts, and apply for cost share?*

### SOCIAL FOREST RESOURCES

*What goals do you have, or steps will you take to conserve and enhance your forest's social resources?*

**Aesthetic Quality** (how will you manage and what considerations do you have around home, the view shed from of your neighbors' property, the road, highway, town) \_\_\_\_\_

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**Adjacent stand or ownership concerns** (how does surrounding management affect your options) \_\_\_\_\_

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**Recreation Impacts** (structure building/maintaining, features, uses, public or permission use or restrictions) \_\_\_\_\_

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**Archeological, cultural and historic sites** (location, conservation, marking to protect) \_\_\_\_\_

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**Carbon** \_\_\_\_\_

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**ROADS, SOIL AND WATER RESOURCES**

*What goals do you have, or steps will you take to conserve and enhance your forest's roads, soil and water resources?*

Who?  
What?  
When?  
Where?

**Applicable Forest Practices Laws – Best Management Practices** \_\_\_\_\_

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**Soil protection** (erosion control, slash filter windrows, seeding, woody debris, nutrient cycling) \_\_\_\_\_

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**Access** (trails, roads, easements, permits, road condition, road maintenance, stream crossings, erosion potential) \_\_\_\_\_

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**Streams, wetlands, ponds, lakeshore** (regulations, permits, riparian habitat, species of concern, road crossings, general access) \_\_\_\_\_

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**WILDLIFE HABITAT AND THREATENED & ENDANGERED SPECIES**

*What goals do you have, or steps will you take to conserve and enhance your forest's wildlife habitat and T&E species?*

Who?  
What?  
When?  
Where?

**Fish & Wildlife** (habitat improvement or creation, bird boxes, den sites, nest boxes, snag retention, wetlands, hunting) \_\_\_\_\_

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**Threatened, endangered, or sensitive species - plants or animals** (to request site specific information <http://mtnhp.org/requests/index.asp>) \_\_\_\_\_

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**RANGE RESOURCE**

What **goals** do you have, or **steps will you take** to conserve and enhance your forest's range resources?

**Weed management** (prevention, control, monitoring) \_\_\_\_\_

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**Range management** (weeds, seeding preferred grasses, fencing, animal preference, time of year) \_\_\_\_\_

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**MANAGEMENT OF TIMBER RESOURCE**

What **goals** do you have, or **steps will you take** to conserve and enhance your forest's timber resources?

**Reforestation** (natural seedling recruitment, planting, site preparation) \_\_\_\_\_

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**Intermediate Treatments - Non-income generating tree thinning and pruning** (what species, what density, for what objective-wildfire hazard reduction, tree health, tree growth, species discrimination) \_\_\_\_\_

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**Insects & Diseases** \_\_\_\_\_

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**Home Fire Safety** *What **goals** do you have, or **steps will you take** to conserve and enhance your forest's timber resources? (defensible space, near home site)* \_\_\_\_\_

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**Wildfire Hazard Reduction and Fire Resistance** (away from home site) \_\_\_\_\_

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**Permits needed** (hazard fuel reduction act, stream crossing, burning) \_\_\_\_\_

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**Cost-share, financial incentives programs** (NRCS EQIP, F&G Hip program, local wildfire hazard reduction, State conservation programs, NGO conservation easements) \_\_\_\_\_

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**Management Plan Implementation Constraints** \_\_\_\_\_

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**Other** \_\_\_\_\_

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**Desired Future Condition - Timber**

MU \_\_\_\_\_

Complete one page for each Unit

Length of planning period    10yr    50 yr    100yr

**Desired mature tree species** (% of forested area) and **expected longevity** (maximum age you expect trees to reach before they die of natural causes or are harvested)

Species	% of Forested Area	Age
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

PP Ponderosa pine  
 DF Douglas-fir  
 LPP Lodgepole pine  
 WL Larch  
 GF Grand fir  
 ES Engelmann spruce  
 WRC W. Red cedar  
 WH Western hemlock  
 WP White pine  
 SAF Sub-alpine fir  
 LP Limber pine  
 RMJ rocky mtn. juniper  
 QA Aspen  
 CW Cottonwood Green ash

Desired species to naturally regenerate \_\_\_\_\_

Desired species to plant \_\_\_\_\_

Desired structure One canopy layer \_\_\_\_\_ Two canopy layer \_\_\_\_\_ Three canopy \_\_\_\_\_

**Bird's-eye view of forest** (circle one)**Wild stand****Evenly spaced****Evenly spaced with openings****Variable density spaced with openings****Some wildlife****Maximizes growth****Growth + regeneration****Some growth + regeneration + wildlife****Desired spacing (in feet)**

**Evenly spaced:** Large \_\_\_\_\_ (ft) Pole \_\_\_\_\_ (ft)  
 Seedling \_\_\_\_\_ (ft)

**Desired tree density (trees per acre)**

Large size class \_\_\_\_\_ Pole size \_\_\_\_\_  
 Seedling/sapling size \_\_\_\_\_ (5-9" dbh)

**Variable density spacing**

Size and shape of tree patches \_\_\_\_\_

Size and shape of thinned patches \_\_\_\_\_

**Evenly spaced or variable density:**

Size and shape of openings \_\_\_\_\_

Spacing (feet)	Trees/acre
3x3	4,840
5x5	1,742
7x7	889
10x10	436
12x12	302
14x14	222
16x16	170
18x18	134
20x20	87
25x25	70
30x30	48
40x40	27

### Forest Harvesting Activities

MU's may be clumped or listed separately. Identify which MU's you are describing.

*What goals do you have, or steps will you take to complete harvesting activities?*

Who?  
What?  
When?  
Where?

**Harvesting:** Describe type of treatment: Even-aged: clearcut, thinning; Uneven-aged: group select, single tree select, overstory removal, understory removal, etc. Treatment methods: ground based or skyline, time of year, type of harvest; seed tree, multiage, sanitation, etc.

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**Slash management** (leave slash at the stump, jackpot pile, whole tree skid, chipping, pulp, post & pole, large woody debris, nutrient cycling) \_\_\_\_\_

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**Streamside management zone (SMZ) law compliance** (marking, protection) \_\_\_\_\_

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**Post harvest activities** (burning landings, piles, or broadcast, seeding roads and landings, weed spray roadsides) \_\_\_\_\_

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**Monitoring** (weeds, regeneration, roads, wildlife) \_\_\_\_\_

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**Permits and cost share opportunities** (slash hazard reduction agreement) \_\_\_\_\_

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**Stewardship Plan Implementation Schedule (MU or all MU's combined) \_\_\_\_\_**

(Copy additional pages if needed)

\*NRCS Practice Code needed if practice will be submitted for cost share, otherwise leave blank.

	Treatment Date (Season/Year)	Treatment Activity Short Description	NRCS Practice Code*	MU#	Treatment (Acres, Feet)	Net Cash Flow	
						Cost	Income
Years 1-2							
					subtotal		
Years 3-4							
					subtotal		
Years 5-6							
					subtotal		
Years 7-8							
					subtotal		
Years 9-10							
					subtotal		
					<b>TOTAL</b>		

## Record of Management Activities (MU or all MU's combined) \_\_\_\_\_

(Copy additional pages if needed)

TOTAL		
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### **Timber Sale Contract Checklist for Private Landowners and Loggers**

Unless a private landowner has the ability to personally harvest trees and transport them to a sawmill or other wood processing facility, the act of logging and transporting trees will be conducted by a contracted professional. The following is a checklist of issues a private landowner and logging contractor may wish to consider on a logging contract. Each of the items should be addressed in a contract to allow for a minimum probability of a dispute. Issues can be as detailed as both parties find acceptable and economically feasible.

- \_\_\_ **Property location and legal description are clearly defined**
- \_\_\_ **Property boundaries and harvest units are clearly and accurately marked**  
(logging trespass results in a minimum cost of 3x value of trees)
- \_\_\_ **Property ownership is documented and type of ownership is specified** (Individual, partnerships, corporations, etc.)
- \_\_\_ **Insurance is documented** (Any contractor working for a landowner must have Commercial General Liability \$1-million, Loggers Broad Form Property Damage Liability \$1-million, Workers' Compensation \$100,000 or an Independent Contractor Exemption, and Automobile Liability \$1-million. If they do not have these, the landowner will be held liable for any damage or personnel injury that may occur. Logging is a hazardous activity!)
- \_\_\_ **Access to the property/harvest unit are specified and documented** (To avoid trespass or the disturbance of sensitive areas access routes should be clearly delineated. If access across other ownerships is required, written and notarized documentation of access permission should be obtained) Insurance can be written to include owner and consulting forester.
- \_\_\_ **Type of harvest is clearly specified for each harvest unit** (Typically trees are marked both at eye level and on the stump, or harvest tree characteristics are defined by species, diameter, crown characteristic, or residual tree spacing)
- \_\_\_ **Timing of harvest is specified** (Dates when harvesting and/or other treatments need to be conducted or completed by)
- \_\_\_ **Residual property specifications should be defined** (This is as detailed as the landowner and contractor can agree upon. Issues can be the completeness of residual logging debris disposal, burn pile rehabilitation, grass seeding, skid trail rehab, noxious weed control, tree planting, noncommercial thinning)
- \_\_\_ **Hazard Reduction Permit has been acquired and responsible party designated** (Under state law a hazard reduction permit must be obtained from the DNRC and a bond posted that covers the expense for meeting the HRA specifications. Either the landowner or contractor is responsible for this)
- \_\_\_ **Best Management Practices (BMP's) and Streamside Management Zone (SMZ) responsibilities are designated**  
(Compliance to Montana BMP's is ultimately the landowners responsibility but should be specified in the contract. Similarly, compliance with SMZ's are state law and their implementation should be specified)
- \_\_\_ **Performance bond or contract penalty clauses** some provision for compensation to the landowner for harvesting activities that deviate from specifications. Having the contractor post a bond is the best protection for the landowner but imposes a risk on the contractor. Contractors already post a performance bond with the state to comply with the Hazard Reduction Agreement)
- \_\_\_ **Method of payment is clearly defined** (Lump sum is one payment for the entire estimated log volume, this method may over or underestimate actual value but is simple and can be demanded in advance of the actual harvesting. **Payment by unit** is where payment for logs occurs based upon the actual scaled logs at the mill. Either the contractor pays an agreed upon percentage to the landowner or the mill pays agreed upon percentages separately to the contractor and landowner. Downfall is that in cases of salvaging dead and dying trees a delayed harvesting job can result in losses of standing tree value)
- \_\_\_ **Method of scaling is defined** (Either direct scaling or weight scaling are used. Direct scaling tends to be more accurate though each mill may use different defect deductions. Weight scaling works for large volume sales that have trees of similar species and diameter. In general logs should be trucked to the mill quickly following harvest or they lose significant water weight or for most accurate conversions a continuous representative sample of logs should be check scaled and weighed)

- \_\_\_ **Notification** *(It is defined if and when the contractor or landowner needs to notify the other party about when activities are to start or end and the type of format – written, e-mail, telephone. This is to avoid issues with blocked access, noise, etc.)*
  - \_\_\_ **Expiration date** *(Any contract should have a defined end date after which the contract is no longer valid)*
  - \_\_\_ **Notarization** *(Any legally binding document should have signatures notarized)*
- \*\*\* This is simply a recommended check list compiled from a variety of sources including The Montana Logging Association for a harvesting contract. Any contract can be challenged. It is always advised that a contract be reviewed by an attorney. You may also want an attorney's fees recovery statement in the document that will allow for recovery of legal fees should a dispute require legal action. \*\*\*

Unit \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_

\_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Unit \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_

\_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Unit \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_

\_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Unit \_\_\_\_\_ Acres \_\_\_\_\_

Objectives: \_\_\_\_\_

\_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



## Management Plan Template Preamble

The forest management plan is integral to the Tree Farm certification process. Inspecting foresters who conduct initial certifications and five-year reinspections are responsible for making sure an up-to-date plan is in place that adequately describes the land and the recommended management activities that will take place over time. The quality and completeness of the plan go a long way in providing useful documentation that the landowner indeed meets the requirements necessary for Tree Farm certification.

Toward that end, the American Tree Farm System has developed a template that can be used in the development of new forest management plans. The template is intended as a helpful guide and is not a requirement in itself. It contains all of the major sections required in Tree Farm management plans according to the AFF Standards of Sustainability for Forest Certification. It is available electronically so that it can be tailored to forester preferences and individual Tree Farm differences.

It is important to note that simple completion of this outline may not provide adequate documentation for certification, depending on the individual circumstances of each Tree Farm and whether various portions of the Standard apply. For example, the template does not specifically contain an integrated pest management (IPM) section, but if chemical use is planned for pest control then the plan should be expanded accordingly; upon reinspection, the Inspecting Forester will review the chemical use and will be checking to see if IPM was addressed in the plan. Same goes for prescribed burning – the Standard calls for adequate planning which should be documented in the plan. Again, there is not a specific section for prescribed burning, so the template would need to be expanded accordingly on a case by case basis.

Management plans vary considerably from region to region, from state to state, from forester to forester – and they also vary in length and depth with the size and scale of the property. There are variations in the way forest management plans are written to comply with state guidelines as well as to meet requirements of other programs. This template may not ideally match state and other program criteria. It may not fit a particular forester's style. It simply provides an outline that fairly well encompasses the elements required in a certified Tree Farmer's management plan. Available electronically, the template can be modified accordingly to better fit geographic and personal preferences.

Forest management plans developed without the use of this template are perfectly acceptable if they contain the required elements listed in the AFF Standard and adequate documentation of management activities encompassed by the AFF Standard. Foresters are encouraged to thoroughly review the AFF Standard and to keep it in mind when writing or revising their clients' management plans.

Foresters who want to use the template can access an electronic version on the ATFS website: [www.treefarmsystem.org](http://www.treefarmsystem.org).



# **American Tree Farm System<sup>®</sup>** **Management Plan Template**

State Tree Farm # \_\_\_\_\_

## Tree Farm Property Location

Tree Farm Name: \_\_\_\_\_ Acres: \_\_\_\_\_

Ownership<sup>1</sup>: \_\_\_\_\_

County: \_\_\_\_\_ State: \_\_\_\_\_

Location<sup>2</sup> \_\_\_\_\_

## Tree Farmer Contact Information

Landowner Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Ph: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ E-Mail: \_\_\_\_\_

## Forester Information

Forester Name: \_\_\_\_\_ Inspector ID # \_\_\_\_\_

Ph: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ E-Mail: \_\_\_\_\_

Employer: \_\_\_\_\_

Landowner's signature confirms that management activities will be conducted in accordance with this proposed Tree Farm Management Plan.

Landowner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_ / \_\_\_\_ / \_\_\_\_

Forester's signature confirms that this proposed Tree Farm Management Plan meets the needs of the landowner(s) and satisfies the American Tree Farm System management plan requirements.

Forester's Signature: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

.....  
..

A copy of this management plan must remain with the Landowner. The American Tree Farm System will acknowledge that the management plan and recommendations are applicable and consistent with land owner's current objectives upon receipt of the relevant 004 Form with all appropriate signatures.

1. Ownership includes Non-Industrial Private, Municipal, Public, and Other landownership classifications.
2. Location includes legal and/or local descriptions to assist in locating property for future reinspection.

## **Sustainable Forest Management Plan**

Management plans are active, adaptive, and embody the owners' current objectives, remain appropriate for the land certified, and reflect the current state of knowledge about forestry and natural resources management.

### **Section 1 - Landowner Goals**

Goal 1: \_\_\_\_\_

Goal 2: \_\_\_\_\_

Goal 3: \_\_\_\_\_

\_\_\_\_\_

### **Section 2 - Management Objectives**

1) Wood and fiber production: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2) Wildlife habitat: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4) Recreation: \_\_\_\_\_

5) Other (i.e. special sites, fish habitat): \_\_\_\_\_

Management plans include a tract map noting stands, conditions, and important features including special sites.

[illegible]


Scale (circle one): 1- square = 1-acre or 10-acres  
Please indicate roads, streams, stands, and property boundaries.

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **Section 4 - Stand Descriptions**

Stand descriptions include acreage, condition, species composition, age distribution, special sites, etc.

Total # of Stands: \_\_\_\_\_

Stand 1 \_\_\_\_\_  
\_\_\_\_\_

Stand 2 \_\_\_\_\_  
\_\_\_\_\_

Stand 3 \_\_\_\_\_  
\_\_\_\_\_



Stand 4 \_\_\_\_\_

Stand 5 \_\_\_\_\_

Stand 6 \_\_\_\_\_

Stand 7 \_\_\_\_\_

Stand 8 \_\_\_\_\_

Stand 9 \_\_\_\_\_

Stand 10 \_\_\_\_\_

## Section 5 - Management Recommendations

Management recommendations address wood and fiber production, wildlife habitat, owner designated fish, wildlife and plant species if desired, environmental quality and, if present and desired by the landowner, recreational opportunities. Management recommendations address Best Management Practices for forestry to ensure sustainable forests.

1) Harvest Method: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2) Stand Improvement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3) Reforestation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4) Air, Water and Soil Protection: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5) Wildlife: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6) Recreation/Access and Other Recommendations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Section 6 - Management Records

Date	Stand	Management Activity	Cost/Rev


## Section 7 - Adaptive Management

Please note any modifications to the initial property goals, objectives, and/or recommendations stated in Sections 1, 2, and/or 5.

Date	Section	Modification

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**Appendix G:  
Scoping Comments**

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## Biomass Crop Assistance Program Public Comments

State	First Name	Last Name	Zip Code	Affiliation	Nature of Comment	Comment Summary
North Dakota	Stephen	Adair	58503	Other	Proposed Alternatives	<b>Ducks Unlimited</b> believes that Alternative 1 is not a viable option. BCAP is an excellent way to begin the process of rapid development of biomass-based systems, which is the future of renewable fuels and energy in the U.S.
North Dakota	Stephen	Adair	58503	Other	Proposed Alternatives	<b>Ducks Unlimited</b> recommends an Alternative C, which combines aspects of both Alternative A and Alternative B. Alternative C would include the following: a) Established biomass conversion facilities that are supported by BCAP project areas are limited to producing energy and biofuels. b) Collection, harvest, storage, and transportation payments are limited to eligible material delivered to biomass conversion facilities included in the BCAP project area. C) No new non-agricultural lands allowed for BCAP project area crop production. D) Cropland acres enrolled in the program would not be capped. E) Advanced biofuels produced by biomass conversion facilities within BCAP project areas must meet the life-cycle greenhouse gas emissions test. F) New and existing biomass conversion facilities are allowed to be part of BCAP project areas but only newly established crops on BCAP contract acres are eligible. G) In addition to large, commercial-scale biomass conversion facilities, small and pilot biomass conversion facilities would also be eligible for BCAP project areas. H) Payments would completely replace lost potential income from non-BCAP crops.
District of Columbia	Julie	Sibbing	20004	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> The differences between the alternatives seem arbitrary and do not have any basis in the statute. Some of the suggested items under these two alternatives are clearly contrary to the statutes, or are areas where USDA does not have discretion to act. Also, some very critical implementation factors that have enormous potential environmental consequences were not included in the notice.
District of Columbia	Julie	Sibbing	20004	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> Alternative A proposes to limit BCAP support to biomass produced for existing facilities and in another proposes to limit support for only new facilities and new crops. Given the Administration's clear goals to promote next generation biofuels and bioenergy, it makes little sense to limit the program to existing facilities or to limit support to existing

## Biomass Crop Assistance Program Public Comments

State	First Name	Last Name	Zip Code	Affiliation	Nature of Comment	Comment Summary
						crops. Support should be provided to both existing and new facilities and existing and new crops. However, new crops will not need establishment or maintenance payments.
District of Columbia	Julie	Sibbing	20004	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> Alternative A proposes to limit BCAP support to biomass used for energy, while Alternative B proposed to allow BCAP support for all biobased products. NWF supports a middle ground between the 2 alternatives whereby the program is not used to support purely non-energy related uses, but is used to support the biomass that is used for multiple purposes that include energy.
District of Columbia	Julie	Sibbing	20004	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> Alternative B proposes to allow facilities outside of a BCAP project area to receive biomass supported by the program. Nowhere in the legislation are there provisions for allowing BCAP supported biomass to go outside the "specified boundaries" of the project area. The further biomass is transported from its production site, the more transportation-related greenhouse gas emissions associated with its use.
District of Columbia	Julie	Sibbing	20004	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> Alternative B proposed to allow the use of new, non agricultural lands. The statute clearly states that "eligible land does not include land that is native sod, as of the date of enactment of the Food, Conservation, and Energy Act of 2008." This leaves little additional land, besides forest lands that could be considered, though NWF supports the inclusion of reclaimed mined lands.
District of Columbia	Julie	Sibbing	20004	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> Alternative B proposes to allow BCAP support for biomass utilized by facilities that do not meet greenhouse gas tests for its product. It makes little sense to provide support to biomass that will not meet the RFS standard or to launch a new program that is not compatible with the goal of addressing global warming.
District of Columbia	Julie	Sibbing	20004	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> Nothing in the statute calls for limiting the program to large facilities, as one of the alternatives does. The program should support a range of types and sizes of biomass facilities. Instead of relying on a large amount of biomass within a small radius of the plant, smaller scale facilities

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						can rely on sustainable harvests from diverse ecosystems with low input and without sacrificing other ecosystem values.
District of Columbia	Julie	Sibbing	20004	Other	Socio-economics	<b>National Wildlife Federation</b> encourages an economic study to determine what type of payment structure will accomplish the objective of encouraging a wide variety of project types in all regions of the country without distorting land prices or fostering projects that clearly will never be economically viable without BCAP support.
District of Columbia	Julie	Sibbing	20004	Other	Wildlife	<b>National Wildlife Federation:</b> Conservation/forest stewardship planning is a critical issue not sufficiently addressed in the EIS. It is critically important to the long-term viability of the biomass energy/fuel industry that their practices be sustainable. The statute clearly requires a conservation or forest stewardship plan and these plans will be critical to ensuring protection of soil, water, and wildlife resources. Impacts to wildlife will largely depend on what and where biomass crops are planted or what existing habitats are harvested, and how and when the biomass crops are managed and harvested
District of Columbia	Julie	Sibbing	20004	Other	Proposed Alternatives	<b>National Wildlife Federation:</b> The notice includes no mention of one of the greatest areas of program implementation with potential for environmental impacts--what types of forest lands will be eligible. NWF encourages an analysis of the soil, water, wildlife, biodiversity, and greenhouse gas emissions brought about by land use changes of forest land eligibility under the program. Projects that rely upon the conversion and clear-cutting of mature standing forests and forested wetlands for dedicated biomass crops should be ineligible for any support under the BCAP program. It should be taken into account that the ability of forests to provide biomass is highly dependent on forest type and the intensity of removals. Particular attention must be paid to soil disturbance, nutrient cycling, and provision of deadwood for wildlife habitat.
District of Columbia	Julie	Sibbing	20004	Other	Other	<b>National Wildlife Federation:</b> The notice fails to discuss types of feedstocks to be supported, yet choices of feedstock will have great significance from an environmental perspective. NWF believes that the program will foster the most sustainable industry



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						if only perennial feedstocks are supported and if supported feedstocks do not require irrigation or substantial chemical inputs.
Missouri	Bill	White	65102	Other	Vegetation	<b>Northern Bobwhite Technical Committee</b> believes the use of non-native plants should be avoided as much as possible, and the use of invasive or potentially invasive plants must not be allowed.
Missouri	Bill	White	65102	Other	Other	<b>Northern Bobwhite Technical Committee</b> believes BCAP should avoid working at cross purposes with, or otherwise negate the conservation gains of other farm bill provisions and other conservation programs with broad environmental benefits (CRP, WRP, and GRP).
Missouri	Bill	White	65102	Other	Wildlife	<b>Northern Bobwhite Technical Committee</b> believes that in order to limit negative impacts on fish and wildlife, especially for bobwhite quail and related grassland species that are in notable decline, BCAP must maintain diversity and ecological sustainability of native fish, wildlife, plants, and communities. Fish and wildlife should be recognized as a co-equal resource value with soil and water in terms of incorporation into the planning, management, and evaluation of biomass crops planted under the program.
Missouri	Bill	White	65102	Other	Wildlife	<b>Northern Bobwhite Technical Committee:</b> Fish and wildlife impacts and benefits will largely depend on what biomass crops are planted, where they are planted, and how they are managed and harvested; thus the net impact on fish and wildlife will be difficult to analyze unless the above environmental concerns are included and addressed in BCAP.
District of Columbia	Matt	Hogan	20001	Other	Proposed Alternatives	<b>Association of Fish and Wildlife Agencies:</b> The limitation of Alternative A to "only large commercial biomass facilities in the BCAP area" is baseless. The differences in the two alternatives in relation to the size of the conversion facilities are constructs of this analysis and appear to have been selected to shift support for the program from being targeted to being general. Targeted implementation of BCAP must allow small and pilot scale conversion facilities to qualify. This provision should be removed.
District of	Matt	Hogan	20001	Other	Proposed	<b>Association of Fish and Wildlife Agencies:</b> The limitation of

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Columbia					Alternatives	cropland acres enrolled in the program being capped at 25% of the cropland acres within a given county under alternative A is a construct of this analysis and does not have a basis in statute. Full economic analysis of the impacts of higher cropland enrollments into conservation programs has not identified significant negative local economic impacts over the term of the contracts. This provision should be removed as a way to separate alternatives.
District of Columbia	Matt	Hogan	20001	Other	Proposed Alternatives	<b>Association of Fish and Wildlife Agencies:</b> Alternative B includes an allowance for new non-agricultural lands to be used for BCAP crop production. This allowance directly disregards the land eligibility definitions in the statute.
District of Columbia	Matt	Hogan	20001	Other	Proposed Alternatives	<b>Association of Fish and Wildlife Agencies:</b> Alternative B is not within the statutes for the program and will likely have direct and long-term impacts on native fish, wildlife, plants, and insects.
District of Columbia	Matt	Hogan	20001	Other	Threatened and Endangered Species	<b>Association of Fish and Wildlife Agencies:</b> In certain locales, Alternative B could have negative impacts on threatened and endangered species that depend on native habitats (that are converted into BCAP crop production lands).
District of Columbia	Matt	Hogan	20001	Other	Proposed Alternatives	<b>Association of Fish and Wildlife Agencies:</b> Alternative B includes allowances to expand eligibility beyond producing energy and biofuels. As part of the "Energy Title" in the 2008 Farm Bill, this program is designed to support and develop energy production.
District of Columbia	Matt	Hogan	20001	Other	Wildlife	<b>Association of Fish and Wildlife Agencies:</b> BCAP must maintain biodiversity and ecological sustainability of native fish, wildlife, plants, and communities. It must recognize fish and wildlife as co-equal resource values with soil and water in terms of incorporation into the planning, management, and evaluations of biomass crops planted under the program.
District of Columbia	Matt	Hogan	20001	Other	Vegetation	<b>Association of Fish and Wildlife Agencies:</b> The use of non-native plants should be avoided as much as possible, and the use of invasive or potentially invasive plants must not be allowed.
District of Columbia	Matt	Hogan	20001	Other	Proposed Alternatives	<b>Association of Fish and Wildlife Agencies:</b> Avoid working at cross purposes with, or otherwise negate the conservation gains

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						of other farm bill provisions and other conservation programs with broad environmental benefits.
District of Columbia	Matt	Hogan	20001	Other	Wildlife	<b>Association of Fish and Wildlife Agencies:</b> Fish and wildlife impacts and benefits will largely depend on what biomass crops are planted, where they are planted, and how the biomass crops are managed and harvested; thus the net impact on fish and wildlife will be difficult to analyze unless environmental concerns are included and addressed directly in BCAP.
Texas	Kyle	Brazil	78363	Other	Wildlife	The <b>Audubon Texas Quail and Grassland Bird Program</b> wants to ensure BCAP maintains bio diversity and ecological sustainability and treats wildlife as a co-equal resource value.
Texas	Kyle	Brazil	78363	Other	Vegetation	The <b>Audubon Texas Quail and Grassland Bird Program</b> opposes the use of any non-native or invasive plants in the BCAP program.
Texas	Kyle	Brazil	78363	Other	Other	The <b>Audubon Texas Quail and Grassland Bird Program</b> does not want BCAP to work against the conservation gains of the farm bill and other conservation programs.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.:</b> The No Action Alternative is not a viable course of action, but rather a combination of Alternatives A and B is the best way to implement BCAP.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.</b> supports Alternative B on Section 1: BCAP should support the development of additional pilot and demonstration scale facilities, as well as the building of the first commercial scale facility.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.</b> supports Alternative A on Section 2: Collection, harvest, storage, and transportation payments should be tied to dedicated energy crops included in the BCAP project area. This maintains focus on the establishment and production of biomass crops for conversion and biotechnology.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.</b> supports the protection of federal and state owned land, native sod, conservation reserve lands, and wetlands and grasslands. However, they are already protected legislatively and do not need to be protected again.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.</b> supports Alternative B for Section 4: a cap on the acreage that can be enrolled in the program would limit the

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						operations of biomass conversion facilities.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.</b> supports Alternative B for Section 5: USDA must guard against the application of greenhouse gas standards because these standards are complex, not specific, and not easily measurable.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.</b> supports Alternative A for Section 6: Biomass acreage that are already established and have overcome the transition to dedicated energy crops for which BCAP was intended do not need the assistance of the program.
Illinois	Frank	Hardimon	61884	Other	Proposed Action	<b>Ceres, Inc.:</b> The goal of this program should be to establish the maximum possible number of new dedicated energy crops in order to provide maximum benefit to this industry.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.</b> recommends Alternative B on the issue of new biomass conversion facilities vs. existing facilities.
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.</b> recommends Alternative B on Section 7: Size should not be a criterion when determining which facilities qualify for BCAP project areas
Illinois	Frank	Hardimon	61884	Other	Proposed Alternatives	<b>Ceres, Inc.:</b> With regards to Section 8, a balance needs to be set between providing growers with sufficient support to transition to dedicated energy crops and while not spending too much to subsidize crops or propagation methods that would not be economical without this program. Providing a certain amount of risk mitigation is essential to encourage farmers to participate. Also, there should be a difference between annual and perennial crop payments in this area. For the establishment year for perennial crops, growers should be paid the full amount they would have received from growing a Title I crop on the same acreage; this would offset their opportunity cost of the establishment year. After the establishment year, growers of annual and perennial crops should be compensated for the difference between the amount they receive from the biorefineries and the amount they would have earned growing Title I crops during that same period.
Texas	Hannah	Lipps	79403	Other	Water Quality and	<b>National Sorghum Producers:</b> Forage crops use large amounts of water. Sorghum is a water-sipping crop and uses about one

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					Quantity	third less water than other forages while producing comparable tonnage. Locating a biomass conversion plant in semi-arid agricultural regions offers many benefits to the facility as excess moisture does not threaten to destroy the biomass during collection, harvest, storage, and transportation. So, a low water using cropping option is important to compliment the conversion facility and reduce negative impacts on local water supplies.
Texas	Hannah	Lipps	79403	Other	Proposed Alternatives	<b>National Sorghum Producers:</b> Supports the aspect of Alternative B that encourages new plant establishment by including all cellulosic biofuels plants in BCAP. However, BCAP payments should be limited to entities that will be contributing to American energy independence. Non-biofuels products should not be supported by BCAP.
Texas	Hannah	Lipps	79403	Other	Proposed Alternatives	<b>National Sorghum Producers:</b> Supports the aspect of Alternative A that limits the payment of BCAP benefits to facilities included in the BCAP project area. However, project areas should be allowed to overlap to encourage rural business development. Also, only land currently in agricultural crops should be admissible for program payments (assumes CRP is considered land currently in agricultural crops).
Texas	Hannah	Lipps	79403	Other	Proposed Alternatives	<b>National Sorghum Producers:</b> Cropland acres in this program should not be capped to avoid limiting cellulosic biofuels development. The cellulosic biofuels industry will be directly limited by the amount of feedstocks available, so capping acreage would be counter-productive.
Texas	Hannah	Lipps	79403	Other	Proposed Alternatives	<b>National Sorghum Producers:</b> Supports the aspect of Alternative B that states that advanced biofuels produced by BCAP project area biomass conversion facilities should not have to meet the greenhouse gas test. The criteria and scoring for the GHG test is not permanently established, and waiting for them to be established could set the program implementation back by months or years.
Texas	Hannah	Lipps	79403	Other	Proposed Alternatives	<b>National Sorghum Producers:</b> Supports the aspect of Alternative B that states that existing facilities and crops should be admissible.



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Texas	Hannah	Lipps	79403	Other	Proposed Alternatives	<b>National Sorghum Producers:</b> Pilot facilities should be supported by BCAP because smart investors will rarely invest in cellulosic technology if it is not proven in pilot facilities. Companies currently operating pilot cellulose plants will need feedstocks to expand their businesses and BCAP can help provide those if pilot plants are eligible.
Texas	Hannah	Lipps	79403	Other	Proposed Alternatives	<b>National Sorghum Producers:</b> Supports a hybrid approach to "broad" and "targeted" implementation of BCAP. It is important to implement BCAP nationwide as soon as possible so feedstocks are available and the industry can begin working out how to complete the logistical aspect of production.
Texas	Hannah	Lipps	79403	Other	Proposed Alternatives	<b>National Sorghum Producers:</b> USDA should target any BCAP payments to cover the risk a producer will incur from planting a new crop. BCAP should encourage production of biofuel feedstocks to the point that they are economically feasible and do not incur more cost than planting a Title I crop in the project area. So, reasonable risk incurred from planting a new crop should be covered, but all potential lost income should not be replaced.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition:</b> The overall scope of the BCAP PEIS must be guided by congressional intent for BCAP, including the statutory language and the 2008 Farm Bill Managers' Statement. Based on the Managers' Statement, the PEIS must include an assessment of perennial and annual bioenergy crops, excluding those prohibited by statute, to determine which crops have promise for commercial development over the lifetime of the 2008 Farm Bill and can also significantly increase the conservation performance of agriculture in the region in order to preserve natural resources. A prime example for perennial crops is switchgrass, while camelina is a prime example of an annual crop. This recommendation is not that BCAP be targeted exclusively to crops to be used for bioenergy production (both camelina and switchgrass can be used for other purposes). Also, the National Sustainable Agriculture Coalition is not recommending that all BCAP funding be directed to bioenergy crop production. In some regions, the development of forest-based energy feedstock may be more

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						appropriate. And there may be non-fuel biomass crop feedstocks that can achieve improvement of the conservation performance of agricultural systems in a region.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition</b> recommends that an alternative be added that provides for BCAP implementation that allows only projects that involve mixed stands of native perennial crops of forest projects that increase the diversity of tree species in existing forests, with additional uses for crop such as rotational grazing. In many regions of the U.S., mixed native perennial stands may well provide both high economic performance and high environmental performance as biomass feedstocks for energy production. Research shows that 16 native prairie species on average yielded 238 percent more biomass than land planted to a single species. This greater diversity increased carbon sequestration, provided more stable annual yields, and significantly reduced the need for pesticides, herbicides, and fertilizer applications. Some economic return from the prairie may be available within 3 years of planting, and multiple uses of prairies could be managed to make them more hospitable for prairie wildlife. A priority for BCAP project that convert marginal land in row crops to native perennial systems may provide significant amounts of biomass with relatively low impacts, easily meet the GHG emission threshold of the RFS as row crop land is converted to perennial cropland, and overall exact relatively low costs to the program.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition</b> recommends that an alternative be added that provides for BCAP implementation that would allow for annual biomass crops that are incorporated into resource conserving crop rotations. BCAP should consider projects for annual biomass crops, with these projects limited to annuals incorporated into existing row crop acreage to establish a resource conserving crop rotation. Incorporation of a crop such as camellina or a biodiesel producing legume could provide feedstock for bioenergy, while also improving the overall conservation performance of BCAP acreage formerly planted in a monoculture annual crop or a simple crop rotation. BCAP should

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						assess the relative environmental impacts of this alternative in comparison to production of biomass crops in continuous, monoculture productions systems.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition</b> recommends that an alternative be added that provides for BCAP implementation targeted to organic farming systems. The choice of production system for bioenergy crops will have profound environmental impacts. Organic farming systems, with their reduced use of toxic pesticides and emphasis on carbon sequestration for increase soil health and structure should be assessed within the BCAP PEIS.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition</b> recommends that an alternative be added that provides for BCAP implementation with project for a wide range of production levels. BCAP should not be used to fund only a few large agricultural projects involving large-scale monoculture production. USDA should select an array of projects that focus on linking demonstration scale bioenergy plants with farmers willing to incorporate new bioenergy crops into existing systems, especially those that will also achieve both conservation and economic benefits from the addition of crops. The BCAP PEIS should compare environmental impacts from biorefineries at different scales of production, including demonstration plants and smaller plants that may be used to provide community level or regional biomass energy.
District of Columbia	Martha	Noble	20002	Other	Socio-economics	<b>National Sustainable Agriculture Coalition:</b> The BCAP PEIS should assess economic and social factors related to the environmental impacts of a program. The USDA should give a high priority to BCAP projects involving bioenergy conversion facilities that provide an opportunity for local ownership, particularly ownership by the farmers providing agricultural feedstock. This assessment should consider the environmental and public health impacts associated with greater regional energy self-sufficiency and the retention of wealth at the local and regional level. USDA and other federal and state agencies have promoted bioenergy as a part of a long-term rural development

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						strategy. This strategy could result improvements to public health and even improve the environment of rural communities. But these benefits will result only if publicly funded incentives are targeted to projects that account for impacts on human health and wellbeing.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition:</b> For some of the alternative points of implementation under Alternatives A and B, the designation of "broad" or "targeted" makes no sense. Also, there is no rationale for assuming that BCAP must be implemented either as including all the points in Alternative A or all the points in Alternative B. For example, the issue of whether GHG emissions of a biofuel will be considered in selecting BCAP projects is an entirely separate issue from that of whether BCAP will be implemented to include only large scale biomass conversion facilities. The BCAP PEIS should address the alternatives for the individual points of implementation separately with the potential environmental impacts for each point considered separately. It will be up to the USDA to consider this environmental information for each point separately and then select a mix of features for the proposed regulation implementation BCAP.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition:</b> The BCAP PEIS should consider the environmental impacts of the conversion facilities for biomass processing for projects that involve the siting of new biomass conversion facilities. An assessment would provide information on the potential consequences of funding projects for various scales of biomass conversion facilities.
District of Columbia	Martha	Noble	20002	Other	Vegetation	<b>National Sustainable Agriculture Coalition:</b> The BCAP PEIS should consider the environmental implications of funding BCAP projects involving the establishment of genetically engineered crops. Genetic engineering for many bioenergy crops is targeted at increasing characteristics such as rapid vegetative growth, tolerance for a wide array of ecological conditions and other features associated with invasive weed and tree species. The potential adverse effects of these new agrofuel crops (that have been deemed invasive species) on environmentally sensitive

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						ecosystems must be assessed and weighed before they are given widespread introduction. The economic costs for controlling GE crops if they "escape" from agricultural systems and invade local ecosystems should be considered too.
District of Columbia	Martha	Noble	20002	Other	Soil Quality	<b>National Sustainable Agriculture Coalition:</b> The BCAP PEIS should address the issue of soil quality when considering the use of crop residue for biomass. Funding should not be provided for crop residue collection unless there is research establishing maximum levels of residue removal without degrading soil quality.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition:</b> Participants in the crop residue portion of BCAP should be required to meet sustainability standards, including an NRCS-approved conservation plan for soil, water, air, and wildlife, or a Forest Stewardship plan to ensure harvest levels and practices are sustainable and protect the environment.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition</b> is concerned that the financial incentive for collection, harvest, storage, and transportation includes incentives to remove crop residues. Concerns have been raised about the use of crop residues for biomass, and there is a great need to further evaluate the validity of estimates of US cropland capacity to sustainably supply feedstock for the emerging cellulosic ethanol industry. There is a need to expand development of existing crops, discover and develop unconventional crops, and create advanced cropping systems that use the potential of all crops so that biomass production is sustainable and doesn't reduce soil organic matter.
District of Columbia	Martha	Noble	20002	Other	Proposed Alternatives	<b>National Sustainable Agriculture Coalition:</b> The BCAP PEIS must address the impacts on soil quality, water quality, water availability, wildlife (including loss of wildlife habitat), air quality, greenhouse gas emissions (including GHG emissions related to land conversion), net energy balance, and other environmental impacts related to the establishment and harvest of the BCAP project crops.
Louisiana	Jim	Simon	70563	Other	Other	<b>American Sugar Cane League:</b> The current long term (5 year) contractual obligation under BCAP could be a hindrance and a



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						liability to a processor should his market dry up. This needs to be clarified and some way to cancel that contract should the market for his product no longer exist should be developed.
Louisiana	Jim	Simon	70563	Other	Proposed Alternatives	<b>American Sugar Cane League:</b> Based on the legislative language creating BCAP, sugarcane should be an eligible crop. Sugarcane, sugar, and bagasse are ineligible for payments under Title I. While Title I contains a marketing loan for sugar produced from sugarcane, this loan is not a "payment" as defined in Title I, nor does the loan cover the leftover bagasse.
Louisiana	Jim	Simon	70563	Other	Proposed Alternatives	<b>American Sugar Cane League:</b> BCAP represents a new opportunity for the Louisiana sugarcane industry to develop commercial energy production from the use of bagasse and leaf matter to the economic and environmental benefit of south Louisiana. At a minimum, ASCL urges that BCAP be implemented under Action Alternative 1, with the south Louisiana listed as a targeted area. However, ASCL urges consideration of adding the southeast region of the U.S. in any future expansion of the program.
Louisiana	Tom	Spies	70810	Other	Proposed Alternatives	<b>Powell Group:</b> There should be further effort put in to defining "eligible crops". There is also concern about the difference between open loop and closed loop biomass.
Louisiana	Tom	Spies	70810	Other	Proposed Alternatives	<b>Powell Group:</b> Advocates for existing facilities being used.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center</b> supports a broad implementation of BCAP that evaluates applications based on performance outcomes such as project feasibility, reduced runoff and nutrient loadings to surface waters, and reduced global warming pollution. They oppose arbitrary limits on size and support a broad definition of "biofuel"
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The "targeted" and "broad" implementation scenarios seem arbitrarily chosen and do not seem to address the main potential environmental concerns surrounding BCAP. Limits imposed on the types and sizes of biomass conversion facilities, new or existing crops and facilities, and county caps on land enrollment seem unlikely to influence

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						environmental impacts of the program. Also, conservation requirements are not even addressed in the scenarios.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> Facilities producing all types of biofuels, heat, power, and biobased products and facilities of any size are included in the statute and should be eligible for BCAP. Funding a variety of sizes and technologies will offer the best chance of innovation and BCAP success. The ELPC supports the BCF definition in the NOFA for the CHST payments.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> Two types of marginal and degraded lands that might be suitable for BCAP include reclaimed and uncontaminated mine land and brownfield sites. Unbroken sod, wetlands, and other rare and protected lands should not be eligible under BCAP.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The statutory language does not specify whether a large or small share of biomass for a project should come from outside a project area. Selection criteria should favor those projects where a greater share of material is coming from within the project area.
Illinois	Kerri	Johannsen	60601	Other	Socio-economics	<b>Environmental Law and Policy Center:</b> A project will lead to local and regional economic benefits. If the project includes crops with carbon sequestration potential, landowners participating in carbon markets could receive additional economic benefits. Both short- and long-term economic benefits ought to be taken into account, including the economic sustainability of a project once the BCAP subsidy for a project has expired.
Illinois	Kerri	Johannsen	60601	Other	Socio-economics	<b>Environmental Law and Policy Center</b> supports local ownership opportunities in biomass conversion facilities. Smaller and locally-owned project may provide some of the best opportunities for innovation in bioenergy production and use.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The impact on soil, water, and related resources should be a focus of the PEIS. The practices used on enrolled BCAP land will be a primary determinant of the environmental impacts resulting from the program.

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Illinois	Kerri	Johannsen	60601	Other	Wildlife	<b>Environmental Law and Policy Center:</b> The selection criteria should establish standards for wildlife protection as they relate to the timing of harvest, monoculture vs. polyculture, and other considerations.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> BCAP projects must provide superior environmental impacts as compared to the previous land use. Natural resource concerns should also encompass the need for funded BCAP projects to provide for a net reduction in global warming pollution.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The best projects will provide global warming benefits, enhanced soil conservation, reduced surface water pollution, and habitat protection combined with financial feasibility. Projects which result in land uses with opposite effects should not be supported.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> USDA should encourage a range of production approaches and eligible crops in projects across the country, since each project will contribute valuable knowledge about energy crops, but USDA should also not penalize BCAP project areas because they do not have a wide range of approaches and crops.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The program should encourage projects from a variety of geographic locations and a variety of land and soil types, and should encourage innovation related to agronomic practices, equipment, pre-processing, storage, or business models. Replicability should be a factor in choosing projects to support.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> There are no criteria for determining the level of establishment payments. ELPC recommends that the payment level should be tied to the score on the selection criteria, with the highest scorers receiving the maximum of 75% and the lowest scorers receiving a minimum of perhaps 40%.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The legislative language does not make clear what annual payments should cover. The best purpose of this payment seems to be risk-sharing

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						with early adopters of this important technology. It may not be necessary to cover all opportunity cost for a participant, but the level of payments received under a land idling program like CRP likely will not be a great enough incentive for a working lands program like BCAP. Some version of a rental rate payment at a more appropriate level might be the simplest solution. If the purpose of the annual payment is risk mitigation, then any annual payment to a producer of an annual crop should be made only in the event of crop failure.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The statutory language regarding reduction in annual payments has a great deal of ambiguity. If a perennial crop is sold to a BCF, then the annual payment should be reduced or eliminated based on the amount of crop sold and revenue received. If a crop is used for purposes other than the production of energy at the biomass conversion facility, the reduction amount should be considered on a case-by-case basis. The rules should clarify how the establishment and annual payments are related. USDA should consider which payments to make on the basis of what level of risk mitigation is needed for individual projects. Once determined, the payments should be clear and predictable.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The requirement for forest stewardship plans for CHST payment eligibility in the recent NOFA is very good, though similar plans should be required for crop land and other types of eligible land listed in the NOFA. The findings from research done on appropriate amounts of agricultural residue that can be removed should be incorporated into conservation plans that should be required for BCAP CHST eligibility. The current NOFA requirement of simple highly-erodible land compliance is not enough. The rules should clarify that the eligibility for these payments extends to the costs to process eligible material. If a producer or other eligible entity is receiving support for collection and harvest then annual payments should be reduced by the amount of revenue received from the biomass conversion facility and CHST payments.

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Illinois	Kerri	Johannsen	60601	Other	Cumulative Impacts	<b>Environmental Law and Policy Center:</b> This program should be linked to the Environmental Quality Incentives Program to assist farmers in developing conservation plans both for the purposes of growing bioenergy crops and for responsible collection of agricultural and forest residues. Farmers in the BCAP program may also be eligible for support through the Conservation Security Program.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The impact of biomass residue harvest from environmentally sensitive lands should also be very carefully considered and any harvest from these lands should be required to be limited to a frequency and intensity that maintains the value of the land. The NOFA for CHST is not strong enough in this area and the conservation requirements should be increased.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> Standing native forests should not be converted to other uses for purposes of this program. If a landowner is growing and harvesting forest materials according to the forest stewardship plan required under the establishment portion of the statute and the CHST NOFA, then conversion should not occur. It is important that USDA see to it that forest owners are indeed following forest stewardship plans as required by law and regulation.
Illinois	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law and Policy Center:</b> The volume of eligible crops produced should be interpreted as volume relative to the proposed need of a biomass conversion facility, not as favoring larger projects over smaller ones. Supporting more projects on a smaller scale will increase chances of success compared to supporting only a few projects at a very large scale.
Iowa	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law Policy Center</b> in Des Moines. We need to get the rules right the first time to allow the greatest diversity of efforts and provide the greatest chance of success. BCAP should not focused on performance outcomes such as project feasibility, reduction of nutrient runoff into surface waters, and reduction of global warming pollutants. Innovations across fuel types, sizes, crops and regions should be a bonus. The USDA should not limit implementation in a way that would not allow the



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						field staff to be innovative. Congress did not limit funding, doing a limited implementation of the program does not seem to follow Congressional intent.
Iowa	Kerri	Johannsen	60601	Other	Proposed Alternatives	<b>Environmental Law Policy Center:</b> 1) Risk sharing is an appropriate goal of BCAP annual payments, and in doing so can accelerate the development of this energy source. This payment should provide adequate incentive for the farmer to take the risk of converting working lands to new crops. 2) The broad statutory definition of biomass conversion facilities should be followed and include such things as biomass pellets and other solid or gaseous biofuels, along with a wide variety of facilities to apply at the start of the program to meet future innovations. 3) BCAP project sizes should not be limited; this would only limit participation to large organizations with no guarantee of innovation.
Iowa	Kerri	Johannsen	60601	Other	Air Quality	<b>Environmental Law Policy Center:</b> BCAP can be an important element in our nation's climate strategy by helping farmers transition to a low carbon economy. Farmers have more to gain than lose in pursuing global warming solutions. The USDA should only support projects with pure benefits for reducing global warming pollution. The best projects will provide global warming benefits and protect the soil, water, and wildlife while showing strong financial feasibility. Projects which do not demonstrate these benefits should not be supported. We hope the USDA will make their goal to have as many diverse and replicable biomass energy crop projects in operation as possible before deliberations begin on the next farm bill. USDA should undertake broad implementation reflecting the constitutional Congressional intent.
Minnesota	Jim	Kleinschmidt	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy</b> is concerned that the implementation proposals deviate from the original legislative language, and that aspects of the proposed alternatives limit the scope of the program.
Minnesota	Jim	Kleinschmidt	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy</b> disagrees with the exclusion of support for non-fuel, bio-based products in Alternative A. They believe that non-fuel, bio-based products

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						must be included because they are often a valuable co-product of renewable energy production, and can provide the profit margin that makes the entire industry feasible.
Minnesota	Jim	Kleinschmitt	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy</b> disagrees with the cap on cropland acreage enrollment in Alternative A. One of the most attractive features of the BCAP legislation was its intended support for all projects that meet eligibility requirements as set by USDA, and so this limitation could hinder development and/or require additional transportation.
Minnesota	Jim	Kleinschmitt	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy</b> disagrees with the exclusion of support for existing biomass conversion facilities and established crops in Alternative A. They support diversity of scale in BCAP so that many new technologies and promising pathways can be tested out and that pathways of success for local, small-scale ownership and sourcing may be created.
Minnesota	Jim	Kleinschmitt	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy</b> disagrees with the limit on payment amounts under Alternative A. Payment levels will make or break BCAP and the farmers involved, so levels should motivate farmers to participate and cover risks, but they should be careful not to distort farm and land prices.
Minnesota	Jim	Kleinschmitt	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy</b> disagrees with allowing facilities outside a BCAP project area to receive BCAP supported materials under Alternative B. Rather, collections, harvest, storage, and transportation payments should be limited to BCAP project areas.
Minnesota	Jim	Kleinschmitt	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy</b> disagrees with exempting BCAP-supported advanced fuels from greenhouse gas requirements under Alternative B.
Minnesota	Jim	Kleinschmitt	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy</b> disagrees with supporting existing biomass conversion facilities and crops already established that meet BCAP eligibility requirements under Alternative B. BCAP should only support those that are tied to new biomass crop acreages, or those that were under construction when the BCAP program was created.
Minnesota	Jim	Kleinschmitt	55404	Other	Proposed	<b>Institute for Agriculture and Trade Policy</b> hopes that the entire

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		t			Alternatives	net lifecycle greenhouse gas emission of the proposed facilities would get close to zero carbon, with low emissions overall and high sequestration. Perennial feedstocks will perform this function better than annual feedstocks
Minnesota	Jim	Kleinschmidt	55404	Other	Water Quality and Quantity	<b>Institute for Agriculture and Trade Policy</b> believes minimized fertilizer and pesticide use should be required. Erosion potential should be evaluated, giving consideration to the benefits of perennial feedstocks.
Minnesota	Jim	Kleinschmidt	55404	Other	Vegetation	<b>Institute for Agriculture and Trade Policy</b> believes the EIS should evaluate whether GMO species should be barred. They have the potential for pollen drift and genetic contamination of prairie remnants, natural areas, and traditionally bred varieties. They could also have health effects on wildlife that would eat or depend on the biomass.
Minnesota	Jim	Kleinschmidt	55404	Other	Vegetation	<b>Institute for Agriculture and Trade Policy</b> believes BCAP must give guidance to what "invasive and noxious species" means.
Minnesota	Jim	Kleinschmidt	55404	Other	Wildlife	<b>Institute for Agriculture and Trade Policy</b> believes biomass has the potential to provide substantial wildlife benefits, and the EIS should compare the effects of different feedstocks on wildlife to ensure adverse effects are avoided.
Minnesota	Julia	Olmstead	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy:</b> We are concerned generally with the implementation proposals you have drafted deviate from the original legislative language and intent. Specifically we disagree with the following points in alternative A: (1) That already established biomass conversion facilities supported by BCAP project areas are limited to producing energy and biofuels. We believe that you must include nonfuel products from biomass because they're often a valuable co-product of renewable energy production and can provide the profit margin that makes the whole industry feasible. There is no environmental or economic reason to exclude co-products or sustainably produced biopolymers. Use of the USDA bio-preferred program guidelines for determining eligible products may be one approach that can also help spur production for this important USDA program; (2) That eligible cropland acreage would be capped at 25 percent within a given county. The law

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						does not envision any cap; each project must be able to decide its own acreage needs. The law requires geographic balance with no concentration in just one county; (3) That only large commercial biomass facilities would be allowed in BCAP project areas. It is important that small and pilot facilities are funded so that new technologies can be tested and create pathways of success for local small operations. We support diversity of the scale as one of the criteria for selection; and (4) That payments would be limited to provide some risk mitigation. The law gives the USDA freedom to devise payment amounts. Levels should be adequate to motivate farmers to participate and cover risks while not distorting farm and land prices.
Minnesota	Julia	Olmstead	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy:</b> We believe the following options in Alternative B should be rejected: (1) That facilities outside the BCAP project area may receive BCAP support in eligible material. We think collection, harvest, storage and transportation payments should be limited to BCAP project areas; (2) That advanced biofuels produced by BCAP projects areas and biomass conversion facilities do not need to meet the greenhouse gas test. Biofuels have to meet the life cycle greenhouse gas test of the Energy Security Act; there's no authority in BCAP to sidestep this law; (3) That existing biomass conversion facilities that meet BCAP eligibility requirements are supported. BCAP should not support existing biomass conversion facilities except for those tied to the environmental crop acreages or those under construction when the BCAP program was created.
Minnesota	Julia	Olmstead	55404	Other	Socio-economics	<b>Institute for Agriculture and Trade Policy:</b> For the State biomass crop, there can by definition be no crop establishment payments, but if farmers have established biomass crops within recent years, they may be eligible for storage and delivery payments.
Minnesota	Julia	Olmstead	55404	Other	Proposed Alternatives	<b>Institute for Agriculture and Trade Policy:</b> We believe the criteria for evaluating BCAP must prioritize the benefits of local ownership, environmental sustainability, climatic performance of feedstocks, fuel production systems, water quality, wildlife

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						benefits, and potential dangers of transgenic crops. Areas of high conservation value must be prioritized. BCAP should also be used to demonstrate different feedstock and conversion technology while including a representative variety of project types and scales while still meeting BCAP goals. The EIS should focus on carbon emissions and other actions on the planet as paramount goals.
South Dakota	Mike	Roth	57103	Other	Proposed Alternatives	<b>POET:</b> The energy title of the farm bill has the potential to serve as a launch pad for cellulosic ethanol, and we need to do it correctly and as Congress intended. Several things need to occur. It needs to be fully implemented and funded as quickly as possible. All cellulosic materials need to be eligible and all cellulosic areas need to be covered. We cannot restrict this opportunity by categorizing eligible base BCAP areas. Today we learned that the USDA is implementing the harvesting, storing, and transporting provision of the farm bill early. FSA is to put together directives and instructions to the state offices. We would like to look at the dialogue as to how biomass conversion facilities and producers can take the next step to take advantage of this program. Some questions are what are the final definitions of what biomass is included, what is a producer, and does this assume farmers are storing biomass? Is this assuming farmers are transporting biomass? What is the timeline for answering these questions for program implementation?
South Dakota	Scott	Weishaer	57108	Other	Other	<b>POET:</b> The energy title of the farm bill will certainly springboard cellulosic ethanol forward. We will need it implemented as Congress had intended. BCAP plays an extremely vital role in providing a means for farmers to create revenue to buy the equipment to provide the biomass to biorefineries. There are many questions we have. When can biomass conversion facilities begin the application process, the farmer owners we have involved in our biomass conversion facilities are asking when they can apply. We need rules in place by early 2010 so we can begin the contracting process. We need clarification of the time frames between the five-year time frame and two-year time frame for matching funds of \$45 per ton.



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Arkansas	Ron	Bell	72501	Other	Proposed Alternatives	<b>Arkansas Association of Resource Conservation and Development Councils:</b> Mr. Bell represents a study area consisting of 98 counties in the five states of Missouri, Arkansas, Mississippi, Tennessee, and Kentucky. They would like to produce, process, and utilize high volumes of biomass to produce bio-based fuels, chemicals, and other bio-based products and to develop specialized procedures needed to move raw materials to production facilities and move finished products to other markets. They believe it is important to included forested areas in eligible contract acreage because it is already present and provides a long term, leveling effect on both feedstock availability and prices that will be important to biofuels producers. They would like multiple BCAP project areas to be proposed in the region. They do not envision a biofuels industry using one particular feedstock to produce one particular energy product, but rather use a variety of feedstocks. They would like to maintain a diverse production base that produces multiple agricultural and forest products of a variety of markets.
Arkansas	Ron	Bell	72501	Other	Other	<b>Arkansas Association of Resource Conservation and Development Councils:</b> Given the effort needed to attain a project area status, a two phase selection process is suggested: 1) Pre-selection phase where an applicant could present a simplified packet that allows USDA to determine that key eligibility and area viability requirements are likely to be met in a full application; 2) Submission of a full application that includes key data from the present of proposed biorefinery and evidence of a successful producer sign up program.
Arkansas	Ron	Bell	72501	Other	Proposed Alternatives	<b>Arkansas Association of Resource Conservation and Development Councils:</b> Encourages USDA to make "seed money" available to sponsors conducting project area promotions and producer sign up campaigns.
Arkansas	Ron	Bell	72501	Other	Other	<b>Arkansas Association of Resource Conservation and Development Councils:</b> Suggests allowing joint sponsorship of a project area of both a producer group and a biorefinery wish to apply that way.
Arkansas	Ron	Bell	72501	Other	Proposed	<b>Arkansas Association of Resource Conservation and</b>

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					Alternatives	<b>Development Councils:</b> Suggests that, under certain circumstances, USDA consider allowing lands under CRP contract to be converted to BCAP contract during a signup period, if it can be determined that bioenergy crop production would be a more environmentally beneficial use of the CRP land than letting it return to cropland production.
Iowa	Rick	Robinson	50266	Other	Socio-economics	<b>Iowa Farm Bureau:</b> Producers receiving CRP payments should not be allowed to produce nontraditional crops (biomass) on CRP acres because it provides CRP contract holders an economic advantage over other producers.
Iowa	Rick	Robinson	50266	Other	Socio-economics	<b>Iowa Farm Bureau</b> supports the development of a comprehensive state and national energy policy that includes research and development, the discovery of new technology, renewable energy sources, conservation, expanded exploration, infrastructure, and capital investment.
Iowa	Rick	Robinson	50266	Other	Other	<b>Iowa Farm Bureau:</b> Programs that increase the use of renewable sources of energy should be designed to keep costs reasonable and affordable. Incentive programs and initiatives should be developed to increase use of renewable energy sources and facilitate local ownership of electrical generation. All electrical utilities should be encouraged to generate a percentage of electricity from renewable sources.
Iowa	Rick	Robinson	50266	Other	Socio-economics	<b>Iowa Farm Bureau:</b> Any new biofuels or renewable energy production facilities that utilize public funding must offer a percentage of investment opportunity to local producers to keep gains realized in rural areas.
Iowa	Rick	Robinson	50266	Other	Mitigation	<b>Iowa Farm Bureau:</b> Reducing the risk to farmers of moving into new biomass operations is necessary for producing biomass feedstock.
Iowa	Rick	Robinson	50266	Other	Proposed Alternatives	<b>Iowa Farm Bureau:</b> Many biomass crops require the use of valuable crop land, which adds to production expenses for the other methods and feedstocks. Corn stover does not, but the cost of hauling it is still too large. Assistance is also needed with on-farm storage costs.
Iowa	Rick	Robinson	50266	Other	Socio-	<b>Iowa Farm Bureau:</b> Helping farmers and regional biomass

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					economic	projects off-set the costs of establishing new crops, purchasing new equipment and establishing new marketing relationships will be necessary if biomass crop production is to increase rapidly enough to meet the goals of the Energy Independence and Security Act of 2007.
Iowa	Rick	Robinson	50266	Other	Proposed Alternatives	<b>Iowa Farm Bureau</b> supports Alternative 1 - Targeted Implementation of BCAP. A program targeted at a limited number of regional projects that use different biomass feedstocks and document their costs, benefits, and environmental protection advantages will best be able to maximize limited program resources and support the establishment and production of biomass crops for conversion to bioenergy. Providing monetary assistance to a limited number of targeted, regional projects is critical at this point in the industry.
Iowa	Rick	Robinson	50266	Other	Proposed Alternatives	<b>Iowa Farm Bureau</b> urges the USDA to consider federal and state policies and research programs that support targeted implementation of BCAP when drafting an EIS that supports a focus on energy independence, a comprehensive energy policy, and research that provides for the production of traditional and renewable energy sources. It should also draw on the federal EISA and ARS research efforts to set realistic parameters for economically and socially sustainable economic opportunities for rural America.
Iowa	Rick	Robinson	50266	Other	Proposed Alternatives	<b>Iowa Farm Bureau</b> opposes declaring any potential biomass crop ineligible for use in any biomass energy incentive program simple because it is non-native.
Louisiana	Ronald	Anderson	70895	Other	Proposed Alternatives	<b>Louisiana Farm Bureau:</b> While the technology for converting some crops into energy is not fully perfected, the technology to convert timber and sugarcane biomass into fuel, heat, and power is already available. Sugarcane should be a BCAP eligible commodity since sugar is not a program payment crop like cotton, rice, corn, soybeans, or grain sorghum and receives no payments. Sugarcane does not meet the definition of "any crop that is eligible to receive payments"...as defined under the BCAP exclusion.
Louisiana	Ronald	Anderson	70895	Other	Proposed	<b>Louisiana Farm Bureau:</b> "Energy cane" needs to be completely

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					Alternatives	segregated from sugarcane when determining eligibility for annual payments, establishment payments and collection, storage transportation and storage payments. Energy cane should be eligible for annual payments since producers would experience a period of "lost opportunity costs" or "lost crop income" before income could be derived from bio-energy conversion.
Louisiana	Ronald	Anderson	70895	Other	Proposed Alternatives	<b>Louisiana Farm Bureau:</b> In selecting BCAP project areas, the Louisiana Farm Bureau Federation believes that regions with biomass crops that show potential for conversion to bio-energy should be included. A valid example would be for the entire Louisiana sugarcane producing regions to be included within a BCAP project area.
Louisiana	Ronald	Anderson	70895	Other	Other	<b>Louisiana Farm Bureau:</b> With regards to the contract terms, the LFBF is concerned that agricultural producers could be held in violation of the BCAP contract terms if their bioenergy processing facility shuts down during the contract period and their crop biomass cannot be delivered to another bioenergy conversion facility within a reasonable distance. The LFBF recommends that the BCAP contracted agricultural producer be allowed to cancel a BCAP contract if their bioenergy conversion facility closes or fails to operate.
Louisiana	Ronald	Anderson	70895	Other	Proposed Alternatives	<b>Louisiana Farm Bureau</b> appreciates that USDA clearly stated that crop acreage bases are maintained and protected when a producer enrolls crops in the BCAP for bio-energy conversion. This is especially important for sugarcane since it has a separate crop acreage base.
Louisiana	Ronald	Anderson	70895	Other	Proposed Alternatives	<b>Louisiana Farm Bureau</b> recommends implementation of Alternative B to permit enrollment of more cropland acreage, participation of existing bio-energy conversion facilities and permit participation of both large and small facilities.
Louisiana	Ronald	Anderson	70895	Other	Proposed Alternatives	<b>Louisiana Farm Bureau</b> supports dedicated biomass production but believes that taking land out of pastures or transforming native land areas into biomass production creates environmental and food supply concerns. They recommend BCAP provide greater assistance toward assisting in the utilization of unused

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						agricultural biomass from crops currently being produced, such as sugarcane, rice, and timber. If utilization of this sugarcane biomass into bioenergy conversion is encouraged, there is little additional fuel and no additional cropland, fertilizer, or crop protection products used to produce and harvest the biomass used for bioenergy conversion. It would also eliminate the majority of agricultural burning by utilizing the unused biomass for bioenergy instead of burning it, thereby reducing air pollution.
Louisiana	Ronald	Anderson	70895	Other	Proposed Alternatives	<b>Louisiana Farm Bureau:</b> If the majority of our crop biomass for bioenergy conversion is utilized, the major obstacle is the increase in volume and number of loads needed to haul the biomass to the conversion facility. LFBF recommends that BCAP transportation assistance apply to the increase in transportation costs attributed to hauling agricultural biomass for bioenergy conversion facility.
Louisiana	Ronald	Anderson	70895	Other	Proposed Alternatives	<b>Louisiana Farm Bureau:</b> The major obstacle in this program is getting high volume agricultural biomass transported to the bioenergy conversion facility. Transportation costs have stymied most previous bioenergy conversion projects. BCAP transportation assistance can greatly improve the economics of bioenergy conversion by helping with the costs of biomass transportation.
Louisiana	Ronald	Anderson	70895	Other	Transportation	<b>Louisiana Farm Bureau:</b> Transportation costs can also be reduced by endorsing new trucking configurations that can haul greater volumes of biomass on our highways. Dual or tandem truck trailers can move much greater volumes of biomass while using the same fuel and employees used for a single truck trailer. This would reduce transportation costs, benefit the environment, and reduce the number of trucks on the highway.
Louisiana	Ronald	Anderson	70895	Other	Other	<b>Louisiana Farm Bureau:</b> BCAP denotes that transactions must be "arms-length" in nature, but some facility operators are also crop owners, and some producers do not maintain ownership of their crop biomass after harvest. So, LFBF recommends that agricultural producers be allowed to transfer or designate their rights to their biomass regarding BCAP contract participation to their biomass consolidator so that their biomass can be sold and



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						transported to the bioenergy conversion facility.
Louisiana	Ronald	Anderson	70895	Other	Proposed Alternatives	<b>Louisiana Farm Bureau</b> recommends that USDA avoid establishing a pre-determined "economically feasible distance" for biomass transportation to a bioenergy conversion facility. They recommend that USDA consider the biomass crop being transported; the boundary of the growing region of the biomass crop and the volume needed by the bioenergy conversion facility for profitability to determine the BCAP project area.
Louisiana	Jim	Harper	71325	Other	Transportation	<b>Louisiana Farm Bureau:</b> The USDA and the Federal Highway Department should look at letting farmers use double trailers or some kind of innovative way to haul sugarcane biomass to the facilities.
Louisiana	Brian	Breaux	70818	Other	Other	<b>Louisiana Farm Bureau:</b> Farmers should be allowed to cancel the five year contract if necessary.
Louisiana	Brian	Breaux	70818	Other	Proposed Alternatives	<b>Louisiana Farm Bureau:</b> Sugarcane should be considered an eligible biomass crop.
Louisiana	Brian	Breaux	70818	Other	Proposed Alternatives	<b>Louisiana Farm Bureau:</b> Recommends either Alternative B or a combination of Alternatives A and B to allow existing facilities to participate in the program. Also, existing sugar mills should be allowed to be project sponsors; this would best utilize them for BCAP in southern Louisiana.
Minnesota	Rebecca	Baumann	55104	Other	Proposed Alternatives	<b>Minnesota Project:</b> It is the Minnesota Project's suggestion that the USDA generally pursue broad implementation guided by key policies designed to maximize the effectiveness of the program and efficiency of the biomass energy systems, while also meeting greenhouse gas reduction goals and maximizing economic opportunities for global communities. A targeted implementation would have a number of negative impacts: Limiting participation could restrict future growth since BCAP would play a vital role in establishing biomass facilities; and land participation caps at the county level could hinder the development of a robust biomass industry by denying the fact that some regions are better suited for biomass crops than others. However, under a broad implementation, in addition to addressing transitional costs farmers may experience the payment for formula must consider

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						total biomass production. This will encourage producers to meet the growing demands for biomass. Without valuing the environmental impact the BCAP program could lead farmers down a dead-end path and delay an effective rural biomass industry.
Minnesota	Rebecca	Baumann	55104	Other	Air Quality	<b>Minnesota Project:</b> To ignore or discount environmental qualities of various biomass production methods would leave producers in a difficult situation. The BCAP program must include accounting of the life-cycle greenhouse gas potentials for biomass crops. Biofuel producers need to account for the greenhouse gas emissions of the biofuels they produce. To fully achieve the goals of the BCAP program (increase biomass production for cleaner energy and provide stability to the biomass industry) the BCAP program must include the environmental impact of the ways biomass is raised, its greenhouse gas content, and cost and risk to the producer.
Minnesota	Ryan	Stockwell	55104	Other	Proposed Alternatives	<b>Minnesota Project</b> suggests that USDA generally pursue broad implementation in order to maximize the effectiveness of the program and the efficiency of the biomass energy systems it is designed to establish, while meeting GHG reduction goals and maximizing economic opportunities for local communities.
Minnesota	Ryan	Stockwell	55104	Other	Proposed Alternatives	<b>Minnesota Project:</b> Targeted implementation would have a number of negative impacts. Limiting participation would restrict future growth. Land participation caps at the county level would prove a hindrance to the development of a robust biomass industry by forcing biomass facilities to draw upon a larger area to meet their biomass supply needs and denying that some regions are better suited for growing biomass crops than others. Not allowing new non-agricultural lands to participate would inhibit growth of the industry because these lands hold potential for sustainably growing biomass crops without causing environmental impacts or reducing the availability of existing cropland for other crop production needs. Also, limits on facility participation would distort the growth and direction of the biomass industry.
Minnesota	Ryan	Stockwell	55104	Other	Proposed	<b>Minnesota Project:</b> The opportunity cost replacement payments

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					Alternatives	available under the broad implementation plan fails to reward biomass production. The CRP is better designed to provide farmers with secure replacement payments for taking land out of traditional commodity production and putting it into cover crops.
Minnesota	Ryan	Stockwell	55104	Other	Proposed Alternatives	<b>Minnesota Project:</b> Payments to farmers must be based on the opportunity cost farmers experience with transitioning to biomass production, total biomass production, the environmental impacts and benefits of growing the crops, and the greenhouse gas potential of the crops.
Minnesota	Ryan	Stockwell	55104	Other	Proposed Alternatives	<b>Minnesota Project:</b> Non-commodity biomass crops generally have improved environmental attributes over their traditional commodity counterparts. However, the way in which crops are grown have a large impact in their environmental attributes. As federal policy continues to move forward on establishing stronger methods of accounting and valuing improved environmental benefits of crop production methods, environmental qualities of various biomass production methods must be addressed.
Minnesota	Ryan	Stockwell	55104	Other	Air Quality	<b>Minnesota Project:</b> BCAP must include accounting of the lifecycle greenhouse gas potentials of biomass crops. If we are to advance toward cleaner energy sources, and not just turn to biomass to diversify global warming energy sources, GHG potential of the biofuels raised through BCAP must be accounted for. In doing so, however, no assumptions should be made about indirect land use changes, which currently carry a great amount of uncertainty.
Minnesota	Ryan	Stockwell	55104	Other	Proposed Alternatives	<b>Minnesota Project:</b> BCAP should place a priority on opening BCAP participation to facilities with majority ownership located within the region it serves. This maximizes the benefits to local residents and land owners who will most effectively work toward maintaining a stable conversion facility rather than look for a quick profit.
New York	Dan	Conable	13331	Other	Proposed Alternatives	<b>New York Biomass Energy Alliance:</b> BCAP should implement the alternative of using any facility producing any bio-based products instead of just existing facilities limited to producing energy and biofuels. This will support the evolution of biofuels into a commodity with well known characteristics and well

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						understood price mechanisms. Also, any facility, rather than just facilities within the project area, should be used because the more limited option makes producers within a selected project area vulnerable to changes in the economic environment or technology that could make a single conversion enterprise within a project area infeasible.
New York	Dan	Conable	13331	Other	Proposed Alternatives	<b>New York Biomass Energy Alliance:</b> BCAP should utilize open land that is not presently producing any crops by putting it into service producing energy feedstock. It is essential to write rules that encourage the use of this type of land within BCAP.
New York	Dan	Conable	13331	Other	Proposed Alternatives	<b>New York Biomass Energy Alliance:</b> In regards to the alternative suggesting capping cropland acres, perhaps it would be better to implement a requirement that a proposed project show a positive net economic impact for the agricultural economy in the region, rather than an arbitrary acreage cap.
New York	Dan	Conable	13331	Other	Proposed Alternatives	<b>New York Biomass Energy Alliance:</b> In regards to the alternative requiring advanced biofuels produced from BCAP project area biomass meet the greenhouse gas test, while it is encouraged for BCAP to implement alternatives that have attractive net energy and relatively favorable greenhouse gas effects, there is no clear rationale for using BCAP to favor any particular biomass energy crop over another.
New York	Dan	Conable	13331	Other	Proposed Alternatives	<b>New York Biomass Energy Alliance</b> favors the alternative supporting new conversion facilities and new crops, various sized facilities, and a "shared-risk" approach to the debate over payments limited vs. replacing all potential income.
New York	Dan	Conable	13331	Other	Vegetation	<b>New York Biomass Energy Alliance:</b> The phrase "potential to be invasive" needs to be narrowed down and specify what constitutes an invasive species. There also needs to be a definition for "native sod".
New York	Dan	Conable	13331	Other	Proposed Alternatives	<b>New York Biomass Energy Alliance:</b> There are hundreds of thousands, probably millions or acres of land that could be producing biomass crops that are not producing food or supporting livestock. This is precisely the resource we need to put to work.

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New York	Dan	Conable	13331	Other	Proposed Alternatives	<b>New York Biomass Energy Alliance:</b> If the USDA wants to see projects happening at a range of scales, using a broad range of feedstocks, the Northeast is a particularly appropriate place to do that kind of project. It's sustainable and ideal from an economic development point of view.
Iowa	Monte	Shaw	50131	Other	Proposed Alternatives	<b>Iowa Renewal Fuels Association</b> representing Iowa's ethanol and biodiesel producers. It's important that the goal of this program help put cellulosic fuels and power on the way to commercialization successfully in an environmentally friendly manner. As we choose how to fund and what products are eligible we don't try to pick the best feedstocks as we see them now while excluding good feedstocks without considering their economic viability, particularly so early in the process. Therefore, we support Alternative B. Eligible materials should not be tied to being part of the crop establishment program, crop residues like corn cobs and stovers should be included for harvest and transportation payments. Preference should not be given to dedicated energy crops, that's the reason for the crop establishment program. This will allow us to get more food and fuel from each acre. If we don't do this, and exclude these feedstocks, we're going to have to take more food vulnerable acres not being used for production today and plant dedicated energy crops. Project Liberty is a perfect example of how early commercial success is going to be from cellulosic facilities being co-located with existing biofuel refineries. If that model is not successful, it may be hard to get the private sector to go along with some of the more exotic models. So certainly you have to look at feedstock producers that are close to a conversion facility or project.
North Dakota	Keith	Trego	58501	Other	Proposed Alternatives	<b>North Dakota Natural Resources Trust</b> believes that attracting projects that produce cellulosic ethanol and other liquid fuels and that use biomass in conversion facilities to produce heat and electricity depend on demonstrating that perennial biomass and other sources of biomass can feasibly and economically be delivered to an energy plant. They recommend an Alternative C, which would offer the most flexibility to producers and facilities



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						that foster development of the bioenergy industry. General provisions would include: 1) All bio-based products produced by any biomass conversion facility in BCAP project areas can be supported; 2) Facilities outside of a BCAP project area may receive BCAP supported eligible material; 3) Payments are limited to eligible material delivered to biomass conversion facilities; 4) Cropland acres enrolled in the program would not be capped; 5) Advanced biofuels produced by BCAP project area biomass conversion facilities must meet the GHG test; 6) New and existing biomass conversion facilities and new and already established crops that meet BCAP eligibility requirements are supported; 7) All facilities would be allowed in BCAP project areas; 8) Payments would completely replace lost potential income from non-BCAP crops.
North Dakota	Keith	Trego	58501	Other	Proposed Alternatives	<b>North Dakota Natural Resources Trust</b> supports identified exclusion of lands eligible for BCAP because North Dakota is experiencing landscape changes that include significant losses of native prairie and CRP grasslands and associated wetlands, population declines in wildlife species associated with grasslands, and loss of ecosystem goods and services such as carbon sequestration provided by native prairies and grasslands. Therefore, this provision will help minimize the impact of BCAP on these aspects of North Dakota's environment.
Louisiana	Willie	Cooper	71302	Federal Agency	Proposed Alternatives	(Mr. Cooper is <b>Farm Service Agency SED</b> , and his comments address issues that others commented on during the meeting) Title I crops that receive a payment are not eligible. Sugarcane does not receive a payment, but it does receive a loan, so that raises an issue. Also, there needs to be a dividing line between sugarcane used for sugar purposes and that used for energy purposes. Also, because these are not typical crops, people could go a few years without doing their adjusted gross income. There are issues that need to be worked out on that topic as well.
Kentucky	Tim	Hughes	40601	State or Local Government	Proposed Alternatives	<b>Governor's Office of Agricultural Policy for Kentucky:</b> The potential eligibility for participation in BCAP should be very broad. Innovative producers of biomass crops need to be rewarded for taking risks, and processors of biomass crops need to be

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						encouraged to work with as many different scenarios as possible. Preference should be given via scoring criteria, bidding process, and/or acreage allocation and based upon the projected long term viability of growing a number of biomass crops within varying regions.
Kentucky	Tim	Hughes	40601	State or Local Government	Other	<b>Governor's Office of Agricultural Policy for Kentucky:</b> The priorities of BCAP should be to create interest, foster innovation, provide demonstration sites, and increase production knowledge; this can be done by funding a variety of locales and production systems. Preference should be given to regions and projects that can demonstrate the best potential for sustainability. The selection criteria should evaluate current and near future marketing opportunities for the biomass crops, revenue generating options for the farmland within the area, beneficial and adverse economic impacts on other segments of agriculture, and general economic conditions for the rural areas under consideration.
Kentucky	Tim	Hughes	40601	State or Local Government	Socio-economics	<b>Governor's Office of Agricultural Policy for Kentucky:</b> Economics should govern whether marginal or productive land is used to grow biomass crops. Producers need data that show them how to produce crops that provide the highest degree of profitability for their operations, achieve max productivity, and deal with the logistical challenges of producing high yield commodities.
Kentucky	Tim	Hughes	40601	State or Local Government	Proposed Alternatives	<b>Governor's Office of Agricultural Policy for Kentucky:</b> BCAP payments should be targeted for small to mid size private landowners and farmers.
Kentucky	Tim	Hughes	40601	State or Local Government	Proposed Alternatives	<b>Governor's Office of Agricultural Policy for Kentucky:</b> CRP and CREP land should be considered eligible for participation within this program if there is limited participation. Many of these farms are already in production of favorable biomass crops, and these crops could "jump start" the educational, research, and demonstration capacity.
Kentucky	Tim	Hughes	40601	State or Local Government	Proposed Alternatives	<b>Governor's Office of Agricultural Policy for Kentucky:</b> Any requirements for additional conservation measures should consider common sense and economic consequences;

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						regulatory burdens should not be too cumbersome.
Kentucky	Tim	Hughes	40601	State or Local Government	Socio-economics	<b>Governor's Office of Agricultural Policy for Kentucky:</b> Payment calculations should be based on a hybrid system. If BCAP is purely yield based, there will be limited revenue in the early years to incentivize the initial investment.
Kentucky	Tim	Hughes	40601	State or Local Government	Other	<b>Governor's Office of Agricultural Policy for Kentucky:</b> BCAP coordination should be facilitated within existing USDA agencies such as NRCS and FSA.
Kentucky	Tim	Hughes	40601	State or Local Government	Proposed Alternatives	<b>Governor's Office of Agricultural Policy for Kentucky:</b> The ability to gain significant production of eligible crops within a region coupled with the potential economic viability of the proposed crops should be rated among the highest priorities for consideration for BCAP funding. Allied support from the private sector, university systems, and other governmental entities should be taken into consideration because they will be vital in commercializing the cropping programs. Diversity in the projects should consider geography, climate, uses, soil types, and scale.
Texas	Linda	Campbell	78744	State or Local Government	Proposed Alternatives	<b>Texas Park and Wildlife Department:</b> Neither Alternative A nor B meets the letter or intent of the statutory language covering BCAP found in the 2008 Farm Bill. Alternative A prevents proposed, small, or pilot biomass conversion facilities from applying for the program, limits payments, restricts eligible acres to 25% of the county cropland acres, eliminates the use of existing forest biomass and contradicts itself by both allowing existing biomass conversion facilities to produce energy and biofuels, but also saying only new biomass conversion facilities are allowed to be part of the BCAP project area. None of these restrictions are supported by the BCAP statutory language in the 2008 Farm Bill. Likewise, Alternative B allows the production of all bio-based products even though the law states BCAP is restricted to the production of bioenergy. It also allows new non agricultural land to be used for crop production even though the law restricts BCAP to agricultural land nonindustrial private forest land and strictly forbids planting on land that was in native sod when the farm bill was signed.
Texas	Linda	Campbell	78744	State or Local	Wildlife	<b>Texas Park and Wildlife Department:</b> The proposal in

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				Government		Alternative B that allows new nonagricultural land to be used for crop production will destroy native grasslands and would have tremendous negative impact on declining grassland wildlife species.
Texas	Linda	Campbell	78744	State or Local Government	Proposed Alternatives	<b>Texas Park and Wildlife Department</b> suggests an Alternative C with the following provisions: Proposed or established biomass conversion facilities are supported by defined BCAP project areas and limited to the production of bioenergy; payments are limited to eligible material delivered to biomass conversion facilities included in the BCAP project area; land eligible for BCAP includes agricultural and nonindustrial private forest land that is not federally or state owned, native sod as of 5/22/08, or land enrolled in CRP, WRP, or GRP; there is no county cap on the amount of cropland acres that can be enrolled in the program; existing and proposed pilot, small, or commercial conversion facilities can be part of BCAP project areas; newly established biomass crops on BCAP contract acres qualify for full establishment and annual payments; both newly and previously established biomass crops on BCAP contract areas qualify for payments; use of site appropriate diverse native species plant mixes will score the highest BCAP applications; the statutory ban on invasive or potentially invasive plants is strictly enforced; and fish and wildlife are considered co-equal resources with soil and water.
Texas	Linda	Campbell	78744	State or Local Government	Wildlife	<b>Texas Park and Wildlife Department:</b> Fish and wildlife impacts and benefits will largely depend on what biomass crops are used, where they are planted, and how they are managed and harvested. Fish and wildlife resources will be negatively impacted unless environmental concerns are addressed in BCAP.
Georgia	Devon	Dartnell	30605	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission</b> suggests that biomass from trees regenerated within privately owned and managed forests be considered acceptable biomass crops for BCAP. Biomass grown and harvested as part of long-rotation forest management systems can be produced sustainably, provide a higher degree of biodiversity and wildlife habitat, and provide water quality

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						protection. Forest biomass could be harvested during the first thinning (approx. 15 years).
Georgia	Devon	Dartnell	30605	State or Local Government	Socio-economics	<b>Georgia Forestry Commission:</b> The use of biomass from trees regenerated in forests would increase income to landowners, which would provide incentive to continue forest retention on private land and achieve higher rates of reforestation on private lands.
Georgia	Devon	Dartnell	30605	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission</b> supports a combination of Alternatives A and B. BCAP should be implemented using a focused area approach to allow flexibility of biomass crop feedstock options and reduce unintended impacts on the pulp and paper industry. GHG support the following provisions: the requirement of a stewardship plan, but also those certified, private, non-industrial forest areas should qualify; no restriction on the use of non-agricultural lands to grow another crop of forest biomass and timber, if the land remains non-agricultural.
Georgia	Devon	Dartnell	30605	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission:</b> BCAP payments can be administered in ways that encourage continued good forest management as well as production of forest biomass. In order to discourage the use of BCAP payments by forest landowners to convert forests to short rotation woody crops, the amount of BCAP payment per acre or the amount of biomass involved in BCAP payments per acre can be limited within the contract period to encourage the use of the appropriate volume that should be harvested during first thinning. This will allow for the use of biomass harvested during the first thinning and encourage long rotation forest management practices that provide numerous environmental benefits as well as timber for forest products.
Georgia	Devon	Dartnell	30605	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission:</b> There are two suggested ways to minimize the competitive effects of the BCAP program on existing forest products manufacturing industries: 1) limit participants to those located within a max radius of the approved biomass conversion facility; 2) Limit BCAP tonnage and/or payments per acre for forestland biomass.
Georgia	Devon	Dartnell	30605	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission:</b> BCAP should include pellet mills that manufacture compressed pellet fuels.



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Georgia	Devon	Dartnell	30605	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission</b> supports the alternative allowing both large and small biomass conversion facilities.
Georgia	Nathan	McClure	31020	State or Local Government	Socio-economics	<b>Georgia Forestry Commission:</b> The use of biomass from trees regenerated in forests would increase income to landowners, which would provide incentive to continue forest retention on private land and achieve higher rates of reforestation on private lands.
Georgia	Nathan	McClure	31020	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission</b> supports a combination of Alternatives A and B. BCAP should be implemented using a focused area approach to allow flexibility of biomass crop feedstock options and reduce unintended impacts on the pulp and paper industry. GHG support the following provisions: the requirement of a stewardship plan, but also that certified, private, non-industrial forest area should quality; no restriction on the use of non-agricultural lands to grow another crop of forest biomass and timber, if the land remains non-agricultural.
Georgia	Nathan	McClure	31020	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission:</b> BCAP payments can be administered in ways that encourage continues good forest management as well as production of forest biomass. In order to discourage the use of BCAP payments by forest landowners to convert forests to short rotation woody crops, the amount of BCAP payment per acre or the amount of biomass involved in BCAP payments per acre can be limited within the contract period to encourage the use of the appropriate volume that should be harvested during first thinning. This will allow for the use of biomass harvested during the first thinning and encourage long rotation forest management practices that provide numerous environmental benefits as well as timber for forest products.
Georgia	Nathan	McClure	31020	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission:</b> There are two suggested ways to minimize the competitive effects of the BCAP program on existing forest products manufacturing industries: 1) limit participants to those located within a max radius of the approved biomass conversion facility; 2) Limit BCAP tonnage and/or payments per acre for forestland biomass.
Georgia	Nathan	McClure	31020	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission:</b> BCAP should include pellet mills that manufacture compressed pellet fuels.

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Georgia	Nathan	McClure	31020	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission</b> supports the alternative allowing both large and small biomass conversion facilities.
Georgia	Nathan	McClure	31020	State or Local Government	Socio-economics	<b>Georgia Forestry Commission</b> , Chief of Forest Utilization and Marketing. We were working on encouraging bioenergy development for forestry biomass in the state for quite some time. We would like to see trees recognized as an energy crop through the BCAP program. We think that trees and perhaps other biomass that are an integral part of a managed forest be recognized if possible. Landowners who manage their forests in longer rotations can provide both a product for bioenergy, products for other industry, and is the best way to produce a bioenergy crop while simultaneously developing and preserving some bio-diversity and wildlife habitat. Landowners need to be able to sell large trees for logs and lumber because that increases their income and encourages them to manage their forests. Projects should be based on a local area to provide some flexibility to identify the appropriate feedstock for that area and prevent unintended effects to other industries.
Georgia	Nathan	McClure	31020	State or Local Government	Proposed Alternatives	<b>Georgia Forestry Commission:</b> I'm not sure what the comment on non-agricultural lands being excluded from Alternative A means. If we're not converting these lands to agricultural lands, would they qualify? I would like to see that those non-agricultural lands qualify if they remain non-agricultural and produce wood biomass. In the case of pulp mills that will possibly convert to biorefinery facilities that produce both transportation fuels and other products such as paper products or other chemical products. Is there some way or some consideration this could be addressed by BCAP, there is a lot of interest.
Georgia	Nathan	McClure	31020	State or Local Government	Socio-economic	<b>Georgia Forestry Commission:</b> The payments that are listed are based on the cost, dollar-for-dollar cost of growing, harvesting, and delivery, which was my interpretation. I think there might be some need to look at that a little closer on how that would be administered with woody biomass crops because of the procurement system that we have.
Louisiana	C.A. "Buck"	Vandersteden	71307	Other	Proposed Alternatives	<b>Louisiana Forestry Association:</b> Supports Alternative B because it is broad-based and recognizes existing and new

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						operations. Existing facilities like the forest industry are among the largest users of renewable energy in the country and can maximize the incentives of this program.
Louisiana	C.A. "Buck"	Vandersteen	71307	Other	Proposed Alternatives	<b>Louisiana Forestry Association:</b> BCAP should direct its program to areas like the south/gulf coast region that have sunlight, water, and good soils, for maximum benefit. The definition of biomass should be broad and take into account the diverse array of biomass material produced in the area.
Louisiana	C.A. "Buck"	Vandersteen	71307	Other	Proposed Alternatives	<b>Louisiana Forestry Association:</b> BCAP should focus its assistance on existing resources for biomass before moving to single use energy crops.
Louisiana	C.A. "Buck"	Vandersteen	71307	Other	Proposed Alternatives	<b>Louisiana Forestry Association:</b> BCAP should be easy to implement, simple to use, and carry a minimum of regulations that would discourage participation in the program. Terms like "economically feasible distance" for biomass delivery should not be arbitrarily set by regulations. The terms of BCAP contracts should have escape clauses for if a processing plant closes and the next nearest facility is too far away. A landowner's income from their land for uses other than biomass production should not be considered in whether they are eligible to participate in the program. The Adjusted Gross Income of a landowner should have no bearing on their participation in BCAP, and the acreage or ownership of the land should not have a bearing on their eligibility in BCAP.
Tennessee	Mark	Gudlin	37204	State or Local Government	Wildlife	<b>Tennessee Wildlife Resources Agency:</b> Fish and wildlife resources should be a co-equal objective. BCAP should strive to maintain biodiversity on our landscapes.
Tennessee	Mark	Gudlin	37204	State or Local Government	Proposed Alternatives	<b>Tennessee Wildlife Resources Agency:</b> BCAP should not work at cross-purposes with or negate other conservation programs such as CRP, WHIP, EQIP, WRP, etc.
Tennessee	Mark	Gudlin	37204	State or Local Government	Proposed Alternatives	<b>Tennessee Wildlife Resources Agency:</b> If Alternative B is chosen, new non-agricultural lands should not be eligible due to the potential to negatively impact native habitats and native fish, wildlife, plants, insects and pollinators.
Tennessee	Mark	Gudlin	37204	State or Local	Vegetation	<b>Tennessee Wildlife Resources Agency:</b> BCAP should not

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				Government		utilize non-native or invasive plants.
South Carolina	Judy	Barnes	29202	State or Local Government	Vegetation	<b>South Carolina Department of Natural Resources</b> , Small Game Project, is opposed to invasive or non-native plants.
South Carolina	Judy	Barnes	29202	State or Local Government	Wildlife	<b>South Carolina Department of Natural Resources</b> , Small Game Project, believes it is important to maintain bio diversity and ecological sustainability. Wildlife should be a co-equal resource value.
South Carolina	Judy	Barnes	29202	State or Local Government	Proposed Alternatives	<b>South Carolina Department of Natural Resources</b> , Small Game Project, opposes negating the conservation gains of the farm bill and other conservation programs, especially the CRP.
Minnesota	Mark	Linguist	56073	State or Local Government	Proposed Alternatives	<b>Minnesota Department of Natural Resources</b> supports a broad implementation of BCAP. MDNR encourages payment rates that provide incentives to use diverse native plant materials local to the region, state partnerships (like CREP) to provide additional funds to accelerate/amplify the ecological services provided by BCAP, and enhancement of environmental value through linkage to other programs like CSP, EQIP, and WHIP. BCAP will need to balance payment rates so that energy crops are economically viable but don't undermine conservation programs like CRP.
Minnesota	Mark	Linguist	56073	State or Local Government	Proposed Alternatives	<b>Minnesota Department of Natural Resources:</b> The PEIS should address land use conversions and identify where enrolled acres will come from. The relationship of BCAP to expiring CRP should be included as part of the land use conversion analysis.
Minnesota	Mark	Linguist	56073	State or Local Government	Proposed Alternatives	<b>Minnesota Department of Natural Resources:</b> The PEIS should address impacts to air quality, soil quality, and water quality and availability. If BCAP includes crop residue removal practices, the PEIS should also address erosion and soil carbon issues.
Minnesota	Mark	Linguist	56073	State or Local Government	Vegetation	<b>Minnesota Department of Natural Resources:</b> Native plant communities need to be addressed in the PEIS. There should be a careful assessment of how the program may create unintended incentives to damage or destroy native plant communities. The PEIS should also address positive environmental effects of expanded planting of native species or opportunities to buffer native plant communities with less intensive agronomic

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						production.
Minnesota	Mark	Linguist	56073	State or Local Government	Wildlife	<b>Minnesota Department of Natural Resources:</b> Surrogate grasslands (like pastures and hayfields) provide habitat for a number of grassland mammal, bird, reptile, and amphibian Species of Greatest Conservation Need. These grasslands must be protected from conversion to uses that reduce ecological value. There should be parameters on acres that qualify for Swampbuster or Sodbuster protections.
Minnesota	Mark	Linguist	56073	State or Local Government	Wildlife	<b>Minnesota Department of Natural Resources:</b> The PEIS should address potential impacts to fish and wildlife populations. Consider priority for biofuels that will provide multiple benefits such as clean water, reduced soil erosion, limited herbicide requirements, and improved wildlife habitat benefits.
Minnesota	Mark	Linguist	56073	State or Local Government	Mitigation	<b>Minnesota Department of Natural Resources:</b> The EIS should assess the role of BMPs in management of energy crop production in order to minimize negative environmental impacts. BMPs may not be established for many energy crop systems of address all aspects of environmental impact.
Minnesota	Mark	Linguist	56073	State or Local Government	Socio-economics	<b>Minnesota Department of Natural Resources:</b> The PEIS should address potential impacts to the forest products industry and employment resulting from possible incentives to shift timber from traditional industries and uses to new industries and uses.
Minnesota	Mark	Linguist	56073	State or Local Government	Cumulative Impacts	<b>Minnesota Department of Natural Resources:</b> The PEIS should discuss the interaction with other federal policies and potential federal policies.
Minnesota	Mark	Linguist	56073	State or Local Government	Proposed Alternatives	<b>Minnesota Department of Natural Resources:</b> The PIES should discuss what the effect is of BCAP project area biomass conversion facilities that do not need to meet the GHG test.
Georgia	Eric	Darracq	30025	State or Local Government	Wildlife	<b>Georgia Department of Natural Resources:</b> Efforts should be made to maintain biodiversity and ecological sustainability. Wildlife should be considered a co-equal resource value. The use of non-native or invasive plants is opposed.
Georgia	Eric	Darracq	30025	State or Local Government	Proposed Alternatives	<b>Georgia Department of Natural Resources:</b> BCAP should not work at cross purposes or otherwise negate the conservation gains of the farm bill and other conservation programs.



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Georgia	Reggie	Thackston	31029	State or Local Government	Wildlife	<b>Georgia Department of Natural Resources</b> Wildlife Resources Division: Efforts should be made to maintain biodiversity and ecological sustainability. Wildlife should be considered a co-equal resource value. The use of non-native or invasive plants is opposed.
Georgia	Reggie	Thackston	31029	State or Local Government	Proposed Alternatives	<b>Georgia Department of Natural Resources</b> Wildlife Resources Division: BCAP should not work at cross purposes or otherwise negate the conservation gains of the farm bill and other conservation programs.
Georgia	Reggie	Thackston	31029	State or Local Government	Proposed Alternatives	<b>Georgia Department of Natural Resources:</b> We are not at this point going to take a stand on either Alternative A or B. If either is implemented, we feel the maintenance of biodiversity and ecological sustainability should be a co-equal objective with other resource values, and that wildlife conservation in particular should be considered in the decision-making process within either of those programs. Many conservation gains have been made in recent years through a variety of other cost share and assistance programs, and that this program should not work at cross-purposes with those programs or any way negate those values that have been made through these other cost share and assistance programs funded with taxpayer money. A good example of one that's very pertinent to Georgia is the long-leaf pine Conservation Reserve Program, a conservation practice that is providing many benefits to wildlife, soil and water quality. This program should in no way negate or work at cross-purposes with that.
Georgia	Reggie	Thackston	31029	State or Local Government	Vegetation	<b>Georgia Department of Natural Resources:</b> We would encourage that as bioenergy crops are developed, that these are native and not non-native, invasive species, and that caution be used in that regard as new energy crops emerge and are developed or incentivized.
Pennsylvania	William	Capouillez	17110	State or Local Government	Proposed Alternatives	<b>Pennsylvania Game Commission:</b> Neither Alternative A nor B meets the letter or intent of the statutory language covering BCAP found in the 2008 Farm Bill. Alternative A prevents proposed, small, or pilot biomass conversion facilities from applying for the program, limits payments, restricts eligible acres

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						to 25% of the county cropland acres, eliminates the use of existing forest biomass and contradicts itself by both allowing existing biomass conversion facilities to produce energy and biofuels, but also saying only new biomass conversion facilities are allowed to be part of the BCAP project area. None of these restrictions are supported by the BCAP statutory language in the 2008 Farm Bill. Likewise, Alternative B allows the production of all bio-based products even though the law states BCAP is restricted to the production of bioenergy. It also allows new non agricultural land to be used for crop production even though the law restricts BCAP to agricultural land nonindustrial private forest land and strictly forbids planting on land that was in native sod when the farm bill was signed.
Pennsylvania	William	Capouillez	17110	State or Local Government	Proposed Alternatives	<b>Pennsylvania Game Commission:</b> The proposal in Alternative B that allows new nonagricultural land to be used for crop production will destroy native grasslands and would have tremendous negative impact on declining grassland wildlife species.
Pennsylvania	William	Capouillez	17110	State or Local Government	Proposed Alternatives	<b>Pennsylvania Game Commission</b> suggests an Alternative C with the following provisions: Proposed or established biomass conversion facilities are supported by defined BCAP project areas and limited to the production of bioenergy; payments are limited to eligible material delivered to biomass conversion facilities included in the BCAP project area; land eligible for BCAP includes agricultural and nonindustrial private forest land that is not federally or state owned, native sod as of 5/22/08, or land enrolled in CRP, WRP, or GRP; there is no county cap on the amount of cropland acres that can be enrolled in the program; existing and proposed pilot, small, or commercial conversion facilities can be part of BCAP project areas; newly established biomass crops on BCAP contract acres qualify for full establishment and annual payments; both newly and previously established biomass crops on BCAP contract areas qualify for payments; use of site appropriate diverse native species plant mixes will score the highest BCAP applications; the statutory ban on invasive or potentially invasive plants is strictly enforced; and

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						fish and wildlife are considered co-equal resources with soil and water.
Pennsylvania	William	Capouillez	17110	State or Local Government	Wildlife	<b>Pennsylvania Game Commission:</b> Fish and wildlife impacts and benefits will largely depend on what biomass crops are used, where they are planted, and how they are managed and harvested. Fish and wildlife resources will be negatively impacted unless environmental concerns are addressed in BCAP.
Nebraska	Tim	McCoy	68503	State or Local Government	Proposed Alternatives	<b>Nebraska Game and Parks Commission:</b> The differences between Alternative A and Alternative B in relation to the size of conversion facilities are baseless and should be removed; targeted implementation should include small and pilot scale conversion facilities.
Nebraska	Tim	McCoy	68503	State or Local Government	Proposed Alternatives	<b>Nebraska Game and Parks Commission:</b> The limitation of cropland acres enrolled in the program being capped at 25% of the cropland acres within a given county under Alternative A does not have a basis in statute and it only in place to make Alternative A seem more targeted. This provision should be removed as a way to separate alternative.
Nebraska	Tim	McCoy	68503	State or Local Government	Proposed Alternatives	<b>Nebraska Game and Parks Commission:</b> The provision under Alternative B that allows new non-agricultural lands to be used for the program is not within the statutes for the program and will likely have direct and long-term impacts on native fish, wildlife, plants, and insects. It could also have negative impacts on T&E species that depend on native habitats.
Nebraska	Tim	McCoy	68503	State or Local Government	Proposed Alternatives	<b>Nebraska Game and Parks Commission:</b> The allowance under Alternative B that would expand eligibility beyond producing energy and biofuels does not follow Congressional intent of this program, as the "Energy Title" in the Farm Bill indicates this program's design to develop energy production.
Nebraska	Tim	McCoy	68503	State or Local Government	Wildlife	<b>Nebraska Game and Parks Commission:</b> The BCAP program must maintain biodiversity and ecological sustainability, avoid the use of non-native plants, forbid the use of invasive plants, and recognize fish and wildlife as co-equal resources with soil and water.

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Nebraska	Tim	McCoy	68503	State or Local Government	Proposed Alternatives	<b>Nebraska Game and Parks Commission:</b> BCAP should not work at cross purposes or otherwise negate the conservation gains of the farm bill and other conservation programs.
Missouri	Bill	McGuire	65102	State or Local Government	Vegetation	<b>Missouri Department of Conservation</b> believes the use of non-native plants should be avoided as much as possible, and the use of invasive or potentially invasive plants must not be allowed.
Missouri	Bill	McGuire	65102	State or Local Government	Proposed Alternatives	<b>Missouri Department of Conservation</b> believes BCAP should avoid working at cross purposes with, or otherwise negate the conservation gains of other farm bill provisions and other conservation programs with broad environmental benefits (CRP, WRP, GRP).
Missouri	Bill	McGuire	65102	State or Local Government	Wildlife	<b>Missouri Department of Conservation</b> believes that in order to limit negative impacts on fish and wildlife, BCAP must maintain diversity and ecological sustainability of native fish, wildlife, plants, and communities. Fish and wildlife should be recognized as a co-equal resource value with soil and water in terms of incorporation into the planning, management, and evaluation of biomass crops planted under the program.
Missouri	Bill	McGuire	65102	State or Local Government	Wildlife	<b>Missouri Department of Conservation:</b> Fish and wildlife impacts and benefits will largely depend on what biomass crops are planted, where they are planted, and how they are managed and harvested; thus the net impact on fish and wildlife will be difficult to analyze unless the above environmental concerns are included and addressed in BCAP.
Virginia	Marc	Puckett	23958	State or Local Government	Wildlife	<b>Virginia Department of Game and Inland Fisheries:</b> Efforts should be made to maintain biodiversity and ecological sustainability. Wildlife should be considered a co-equal resource value. The use of non-native or invasive plants is opposed.
Virginia	Marc	Puckett	23958	State or Local Government	Proposed Alternatives	<b>Virginia Department of Game and Inland Fisheries:</b> BCAP should not work at cross purposes or otherwise negate the conservation gains of the farm bill and other conservation programs.
Louisiana	Mike	Strain	70821	State or Local Government	Proposed Action	<b>Louisiana Department of Agriculture and Forestry</b> supports the full implementation of BCAP.
Louisiana	Mike	Strain	70821	State or Local	Other	<b>Louisiana Department of Agriculture and Forestry:</b> Louisiana

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				Government		has a comparative advantage in that its extended growing season allows for the possibility of producing a variety of potential feedstock crops. The Louisiana sugarcane and forestry industries have begun making advancements toward the production of biomass feedstock. Louisiana rice industry also has great potential in the use of rice hulls as a conversion material. Also, Louisiana has existing facilities in place that are capable of converting biomass materials into power through co-generation.
Wisconsin	Judy	Ziewacz	53702	State or Local Government	Other	<b>The Wisconsin Office of Energy Independence</b> urges consideration of Wisconsin for a BCAP demonstration project or candidate for first round funding under a NOFA.
Wisconsin	Judy	Ziewacz	53702	State or Local Government	Proposed Alternatives	<b>The Wisconsin Office of Energy Independence</b> sees merit in both Alternatives A and B and encourages the CCC to consider combinations of both with a focus on projects that are fully commercial and have immediate impacts for reducing global warming emissions while enhancing soil conservation, water quality, and wildlife benefits. A focus on perennial cropping systems that offer maximum soil conservation, water quality, and wildlife advantages should be emphasized.
Wisconsin	Judy	Ziewacz	53702	State or Local Government	Proposed Alternatives	<b>The Wisconsin Office of Energy Independence:</b> BCAP must be implemented in a manner consistent with the decades of progress toward soil, water, and wildlife conservation and enhancement.
Wisconsin	Judy	Ziewacz	53702	State or Local Government	Other	<b>The Wisconsin Office of Energy Independence:</b> There is great potential to expand the use of biomass energy in the Midwest because of the abundance of highly erodible and marginal agricultural land not suited for continuous row cropping and the large number of facilities that can be converted from fossil fuel to biomass fuel at relatively low cost.
Wisconsin	Judy	Ziewacz	53702	State or Local Government	Other	<b>The Wisconsin Office of Energy Independence:</b> Wisconsin is ready to work with land owners in agriculture and forestry to plant energy crops. Wisconsin has biomass for heat and energy project that are ready to move ahead now with various companies.
Iowa	Brian	Crowe	50310	State or Local	Proposed	<b>Iowa Office of Energy Independence</b> , established in 2007 by



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				Government	Alternatives	Governor Culver and the state legislature to fund research and development in new energy areas, to promote what the state has done this far in areas of biofuels and wind and other technology innovation. My recommendation for the BCAP program would be to not pick a winner as far as specific biomass feedstocks, but to look towards a variety of different options. Leave it as open as possible to invite the private sector to innovate and develop methods to quicken our ability to get to new areas of development.
New York	Jonathan	Barter		State or local government	Other	<b>Soil and Water Conservation District:</b> Assuming that BCAP will start planting perennial crops in the spring of 2010, it would be helpful to commence start up/sign up by the fall of 2009 in order to enable soil sampling, lime applications, seed purchases, etc.
New York	Jonathan	Barter		State or local government	Proposed Alternatives	<b>Soil and Water Conservation District:</b> Can the perennial crops to be planted be either cool-season or warm-season grasses, and do they need to be identified as "biomass crops"?
New York	Jonathan	Barter		State or local government	Proposed Alternatives	<b>Soil and Water Conservation District:</b> Does the end use of the biomass material need to meet a certain criteria? (i.e., might there be end uses that would not be in compliance?)
Georgia	Roderick	Gilbert	31793	State or Local Government	Proposed Alternatives	<b>(No Agency Identified)</b> The amount of cropland that can be enrolled in the program under Alternative A should be increased from 25% to 35% in order to meet the supply demand for biomass conversion facilities.
Georgia	Roderick	Gilbert	31793	State or Local Government	Proposed Alternatives	<b>(No Agency Identified)</b> Impacts of Alternative B: 1) It may impact the amount of crop dedicated to food production, 2) Farmers may be discouraged from planting bioenergy crops because of the input costs of greenhouse gas testing, 3) Exclusionary measures on types and sizes of facilities will limit market potential for farmers, 4) all bio-based products produced by a biomass conversion facility should be eligible for this program unless they introduce environmental or ecological problems.
Georgia	Roderick	Gilbert	31793	State or Local Government	Proposed Alternatives	<b>(No Agency Identified)</b> The environmental review by FSA should minimize the impact on the planting schedule for farmers
North Carolina	Mark	Jones	28530	State or Local	Wildlife	<b>(No Agency Identified)</b> Efforts should be made to maintain

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				Government		biodiversity and ecological sustainability. Wildlife should be considered a co-equal resource value. The use of non-native or invasive plants is opposed.
North Carolina	Mark	Jones	28530	State or Local Government	Proposed Alternatives	<b>(No Agency Identified)</b> BCAP should not work at cross purposes or otherwise negate the conservation gains of the farm bill and other conservation programs.
North Carolina	Benjy	Strope	28399	State or Local Government	Wildlife	<b>(No Agency Identified)</b> Wildlife needs to have equal consideration
North Carolina	Benjy	Strope	28399	State or Local Government	Vegetation	<b>(No Agency Identified)</b> Only native vegetation should be used.
Louisiana	John	Broussard	71302	State or Local Government	Proposed Action	<b>(No Agency Identified)</b> BCAP should be implemented and is very important in helping develop alternative energy in Louisiana. Efforts have been made to implement other alternative energy programs under rural development but have had difficulties with eligibility and capital. BCAP should be able to make headway where they have not.
Georgia	Deborah	Baker	30348	Other	Proposed Alternatives	<b>Georgia-Pacific</b> recommends evaluating the environmental impacts of increased demand for wood supply for biomass facilities on forests' structure and wildlife habitats.
Georgia	Deborah	Baker	30348	Other	Proposed Alternatives	<b>Georgia-Pacific</b> believes RFS mandates have the potential for significant negative impacts to forestation levels, forest sustainability, and existing domestic industry. It is best to provide incentives that broaden the availability of sustainable forestlands in order to meet RFS requirements.
Georgia	Deborah	Baker	30348	Other	Proposed Alternatives	<b>Georgia-Pacific:</b> Alternative B is better positioned to broaden the availability of supply by not limiting the acres of cropland that can be enrolled in BCAP; by allowing all bio-based products produced including traditional biomass uses to energy such as CHP from the same fuel for use at a facility such as CHP of any biomass conversion facility in BCAP to be supported; by allowing new non-agricultural lands for BCAP project area crop production; and by allowing existing biomass conversion facilities and crops already established that meet BCAP eligibility requirements to be supported.
Georgia	Deborah	Baker	30348	Other	Other	<b>Georgia-Pacific</b> recommends developing incentives for the

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						establishment and production of eligible crops that are coupled with requirements for improving growth and yield rates through intensive management of forests and mitigating potential changes in existing forest structure.
Georgia	Deborah	Baker	30348	Other	Socio-economics	<b>Georgia-Pacific</b> recommends evaluating the primary market effects on wood supply and pricing and the secondary market effects upon supply and pricing of lumber and consumer paper products. Include the impact on the wood supply through biomass growth/drain ratios at the current level and at future demand levels.
Minnesota	Andy	Zurn	56215	Other	Proposed Alternatives	<b>The Chippewa Valley Ethanol Company</b> believes corn cobs should be included as eligible material for the purpose of CHST matching payments.
Minnesota	Andy	Zurn	56215	Other	Proposed Alternatives	<b>The Chippewa Valley Ethanol Company:</b> Corn cobs are a widely available and unutilized biomass having excellent material handling properties and BTU content. Corn cobs offer the best opportunity for near-term renewable energy impact. Corn cob CHST systems are being developed and capital investment needs to be incentivized to promote supply to new conversion facilities.
Minnesota	Bill	Lee	56215	Other	Proposed Alternatives	<b>The Chippewa Valley Ethanol Company</b> believes corn cob biomass should remain an eligible material for CHST matching payments.
Minnesota	Bill	Lee	56215	Other	Other	<b>The Chippewa Valley Ethanol Company</b> appreciates the provision for a coop exemption to the arm's length transaction requirement.
Minnesota	Bill	Lee	56215	Other	Proposed Alternatives	<b>The Chippewa Valley Ethanol Company:</b> biomass gasification system qualifies as a conversion facility.
Iowa	Bill	Belden	52571	Other	Proposed Action	<b>Prairie Lands Bio-Products, Inc.</b> encourages the implementation of BCAP as it was intended. Without an underpinning like BCAP provides, it will be virtually impossible for farmers to commit resources to develop a biomass fuel or feedstock supply given today's production technology. BCAP provides the needed incentives to encourage farmers to shift production on their land to a more sustainable production base

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						where it makes sense for a biomass conversion facility to be located.
Iowa	Bill	Belden	52571	Other	Proposed Alternatives	<b>Prairie Lands Bio-Products, Inc.</b> supports targeted implementation laid out in Action Alternative #1 as a pilot implementation strategy. These projects will offer USDA the best opportunity to quickly monitor and evaluate the effectiveness of BCAP.
Iowa	Bill	Belden	52571	Other	Other	<b>Prairie Lands Bio-Products, Inc.:</b> Doing a full EIS on the acres that will be used in a pilot BCAP setting will provide long delays in implementing BCAP. Instead, there is practical value in using pilot BCAP projects to closely monitor the implementation of sustainable practices, document the techniques and practices used to achieve sustainability, and evaluate changes needed to achieve the goals of the RFS.
Iowa	Bill	Belden	52571	Other	Proposed Alternatives	<b>Prairie Lands Bio-Products, Inc.:</b> BCAP should: 1) Promote feedstocks that are dedicated energy crops; 2) Not fund residue crops; 3) limit the collection, harvesting, storage, and transportation payments to eligible material delivered to biomass conversion facilities included in a BCAP area with a fuel shed of less than a 100 mile radius; 4) Allow all biomass conversion facilities to be eligible; 5) Allow technology and business plans to drive which facilities are selected to participate in the pilot BCAP project areas; 6) Incentivize landowners to cover their risk to plant a new crop in large enough quantities to support biomass conversion facilities.
Iowa	Bill	Belden	52571	Other	Socio-economics	<b>Prairie Lands Bio-Products, Inc.:</b> the producer group that provides the biomass for the Chariton Valley Biomass Project, the DOE-USDA research and development project who co-fire switchgrass with coal to produce electricity. We encourage the implementation of the BCAP program as it was intended. For business-planning purposes and without the underpinning BCAP provides it would be virtually impossible for farmers and landowners to commit resources to developing biomass fuel and feedstock supply given today's production technology. The risks associated; seeding the new crop, costs for the land while the proper statute is taking place, and equipment shifts to support a

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						conversion facility are huge. BCAP provides the incentives to encourage farmers and landowners to shift their production base where it makes sense for a conversion facility to locate. It provides financial assistance to establish the energy crop that would not offer economic returns for two to three years. The harvesting, storing, and transportation component will mitigate the risks associated with the purchase of equipment, storage space needed for large quantities of biomass.
Iowa	Bill	Belden	52571	Other	Proposed Alternatives	<b>Prairie Lands Bio-Products, Inc.:</b> We think it is wise to target and implement initially in the specific areas or regions as proposed by alternative 1, using a pilot implementation strategy. Targeting those areas where there are current business relationships between producers and cellulose refiners or power companies makes good sense. These shovel-ready or nearly shovel-ready products will allow the USDA to quickly monitor and evaluate the program's effectiveness. The collection, harvesting, and transportation payments should be limited to eligible material delivered to biomass conversion facilities within the BCAP fuel-shed area, probably not more than a 100-mile radius.
Iowa	Bill	Belden	52571	Other	Other	<b>Prairie Lands Bio-Products, Inc.:</b> Our organization believes the USDA and FSA should evaluate the environmental impact criteria of the rules. Doing a full-line EIS could lead to long delays in implementing the BCAP project. Instead we believe it is practical to use BCAP projects to monitor implementation of sustainable practices, document the techniques and practices used to achieve sustainability, and evaluate changes needed to achieve the goals from a producer's perspective. We believe the BCAP program should promote feedstocks that are for dedicated energy crops, funding resources should not be directed towards residue crops like corn stover.
Louisiana	Neville	Dolan	70394	Other	Proposed Alternatives	<b>Raceland Raw Sugar Corporation:</b> Sugar cane bagasse and cane leaf matter should be eligible crops. These renewable fibrous materials are used solely to provide energy for the conversion facility with all excess being converted to biofuels.
Louisiana	Neville	Dolan	70394	Other	Proposed Alternatives	<b>Raceland Raw Sugar Corporation:</b> BCAP selection criteria should ensure enough acreage is available in surrounding areas



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						of the conversion facility to meet the feedstock requirements. New high volume box trailers will solve this problem.
Louisiana	Neville	Dolan	70394	Other	Proposed Alternatives	<b>Raceland Raw Sugar Corporation:</b> The five year contract term should include a provision to allow the producer and the conversion facility to cancel in the case of extraordinary circumstances (e.g., collapse of biomass or bio-fuels market, catastrophic weather conditions, conversion facility failure, etc).
Louisiana	Neville	Dolan	70394	Other	Proposed Alternatives	<b>Raceland Raw Sugar Corporation:</b> The cost for the separation of sugarcane and cane leaf matter should be considered in the program. This process complements collection, harvest, storage, and transportation of the biomass.
Louisiana	Neville	Dolan	70394	Other	Proposed Alternatives	<b>Raceland Raw Sugar Corporation:</b> A provision should be included to extend the matching payment amount period to allow for the program to be fully established before any payments are reduced or stopped.
Louisiana	Neville	Dolan	70394	Other	Proposed Alternatives	<b>Raceland Raw Sugar Corporation</b> supports Alternative B because: 1) A federal program like BCAP is essential to ensure that a continued feedstock is available to conversion facilities to allow for the required throughputs which are necessary to meet the scales of economies for such entities; 2) There is a need to redesign the current feedstock transport system from field to conversion facility; 3) Sugar factories in Louisiana operate for 3 months per year, and the economic advantage of operating equipment for longer continuous production periods is obvious.
Massachusetts	John	Howe	02142	Other	Proposed Alternatives	<b>Verenium</b> recommends that both "targeted" and "broad" EIS scenarios consider a full range of dedicated energy crops. In particular, FSA should encourage the use of highly promising but non-traditional crops that have not been produced in large volume, and for which no other USDA crop support programs exist. These include high-biomass grasses such as energy vane, switchgrass, Napiergrass, miscanthus, and high-biomass sorghum.
Massachusetts	John	Howe	02142	Other	Cumulative Impacts	<b>Verenium:</b> The EIS process should evaluate the cumulative effect of BCAP implementation on the government's ability to meet its broader policy objectives. The production of biofuels

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						from domestically-sourced biomass feedstocks can contribute to local and global environmental improvement, enhanced national energy security, rural economic development, and more effective and optimal overall use of land resources.
Massachusetts	John	Howe	02142	Other	Mitigation	<b>Verenium:</b> BCAP can contribute to climate change risk mitigation by promoting significant reduction of greenhouse gas emissions. The cultivation of perennial, low- or no-till energy crops can be used as a technique to sequester carbon in the soil on a long-term basis. The high per-acre yields can free up acreage elsewhere for food crop production and alleviate concerns about potential pressure for indirect land use change. BCAP can support the achievement of national biofuels production while sidestepping the "food vs. fuel" issue. BCAP can help minimize fossil fuel-based inputs involved in biofuels production.
Massachusetts	John	Howe	02142	Other	Socio-economics	<b>Verenium:</b> By providing support to growers to move into non-traditional crops, BCAP can bolster economic development opportunities and stimulate a major new wave of job creation in rural communities nationwide where cellulosic biomass can be grown. BCAP will generate skilled jobs across the value chain, and investment in advanced biofuels production is also expected to drive a powerful "multiplier effect", stimulating the formation of additional service-related jobs in and around communities where these production activities are based.
Massachusetts	John	Howe	02142	Other	Other	<b>Verenium:</b> BCAP can be used as an important tool to help to preserve and maintain domestic land in long-term agricultural use, creating an "option value" in open land that is lost when it is converted to other uses.
Massachusetts	John	Howe	02142	Other	Soil Quality	<b>Verenium:</b> BCAP can create the option to be able to use marginal lands for multiple valuable purposes. Establishing perennial bioenergy crops on such lands can keep those lands open for the long term and restore their fertility by enhancing soil organic carbon, regulating a healthy nitrogen cycle, and promoting robust hydrological systems.
New York	Tom	Lindberg	13021	Other	Proposed Alternatives	<b>Mesa Reduction, Engineering, and Processing</b> supports broad implementation of BCAP. Given the range of feedstocks and the

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						range of different uses both for conventional power production and second generation biofuels, BCAP should be as open as possible in allowing for as many different things as possible.
New York	Tom	Lindberg	13021	Other	Vegetation	<b>Mesa Reduction, Engineering, and Processing</b> notes that many of the biomass crops that are attracting interest from the company can be characterized as invasive, and it would be a shame for such plants like canthus to go to waste because they are characterized as invasive.
New York	Tom	Lindberg	13021	Other	Proposed Alternatives	<b>Mesa Reduction, Engineering, and Processing</b> supports new nonagricultural lands in BCAP. In order for BCAP to be effective in New York, nonagricultural lands must be utilized. Idle and fallow agriculture lands in New York are going to be very important for both short rotation woody crops and agriculture crops.
New York	Tom	Lindberg	13021	Other	Proposed Alternatives	<b>Mesa Reduction, Engineering, and Processing</b> recommends allowing existing facilities and small pilot facilities. There is no "one size fits all" industry for biomass in New York State. Given the range of sizes for biomass conversion facilities in New York, no facility should be excluded from BCAP.
New York	Tom	Lindberg	13021	Other	Socio-economics	<b>Mesa Reduction, Engineering, and Processing</b> supports flexibility in determining the economic radius for the BCAP project area. The definition of a project supply area can shrink or expand depending on the price of fuel and other factors.
New York	Richard	Alexander	14063	Other	Proposed Alternatives	<b>Double A Willow</b> is strongly in favor of Action Alternative 2, a broad national implementation of BCAP, as long as there are sufficient resources available to do so.
New York	Richard	Alexander	14063	Other	Proposed Alternatives	<b>Double A Willow</b> is concerned that it takes about \$1000 per acre to develop a willow plantation, an investment that produces at least 10 tons of biomass per year for at least 21 years. Willow should be available as the biomass crop of choice at a number of different locations throughout the country, and we do not want to see that limited by this scoping session.
New York	Richard	Alexander	14063	Other	Proposed Alternatives	<b>Double A Willow:</b> We need to look at optimizing the production of food and biomass feedstocks from the lands that support each other most effectively. Double A Willow feels that willow

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						production is well adapted to environmentally sustainable production methods and is encouraged by the yield results from marginal and previously underutilized farmland. Double A Willow believes that this is the type of land resource best utilized to produce renewable biomass energy feedstock.
California	Jack	Oswald	94133	Other	Proposed Alternatives	<b>SynGest, Inc.</b> concludes that the quickest way to encourage the largest possible commodity market for the collection and distribution of biomass is to include the collection of all environmentally sustainable crop residue in the BCAP program. "Crop waste" and not just pure "energy crops" should be included for all provisions. A reasonable and economically viable limit can be removed for every crop. Removal will be economical as long as it is collected at the time of primary crop harvest. A study should be conducted on the maximum amount of each crop residue that can be safely removed from the land and the effects from residue removal (including corn cobs, corn stover, wheat chaff, oat hulls, rice hulls, rice straw, wood waster, and sugar cane bagasse). If the biorefinery that processes crop residue is able to easily capture and return nutrients to the farmer, the amounts of allowable residue removal should be adjusted upward. Also, they recommend that the biomass part of the corn plant, not the food/kernel part, be eligible for all of the BCAP provisions.
California	Jack	Oswald	94133	Other	Proposed Alternatives	<b>SynGest, Inc.:</b> "Establishment payments" would apply to the necessary equipment needed to harvest the food as well as the biomass portion of a crop. In most cases, existing harvesting equipment can easily be modified or enhanced to establish this production. However, the BCAP provision for per ton delivered matching payments is insufficient alone to provide the incentive needed to rapidly develop the market for biomass for renewable biofuels and bioproducts.
Iowa	Don	Frazer	50662	Private Citizen	Proposed Alternatives	<b>SynGest, Inc.:</b> The target of BCAP is to encourage the largest possible commodity market for the collection and distribution of biomass; the quickest way to foster such collection and delivery is to interpret every provision of the 2008 Farm Bill and of BCAP to include the collection of all environmentally sustainable crop

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						residue.
Iowa	Don	Frazer	50662	Private Citizen	Proposed Alternatives	<b>SynGest, Inc.:</b> All "crop waste" and not just pure "energy crops" should be included for all provisions. In many cases, some amount of the residue should be left in the field for continued soil health, but a reasonable and economically viable limit can be removed for every crop. Removal will be economical as long as it is collected at the time of primary crop harvest.
Iowa	Don	Frazer	50662	Private Citizen	Socio-economics	<b>SynGest, Inc.:</b> The best and fastest way to achieve the Obama administration's goals to stimulate the economy, achieve energy independence, and reduce climate change is to collect and process existing crop waste.
Iowa	Don	Frazer	50662	Private Citizen	Proposed Alternatives	<b>SynGest, Inc.:</b> Recommends conducting an environmental review to include studies of the maximum amount of each crop residue that can safely be removed from the land (include at least corn cobs, corn stover, wheat chaff, oat hulls, rice hulls, rice straw, wood waste, and sugar cane bagasse). The study should look at the effects of residue removal. Also, if the biorefinery is able to easily capture and return nutrients to the farmer, the amounts of allowable residue removal should be adjusted upward as long as other soil health impacts are still mitigated.
Iowa	Don	Frazer	50662	Private Citizen	Proposed Alternatives	<b>SynGest, Inc.:</b> While "corn" is eligible for Title I, SynGest interprets the law to state that the food part, the corn kernels, are eligible for Title I, not the biomass part of the plant. So, the biomass part of the corn plant should be eligible for all of the BCAP provisions
Iowa	Don	Frazer	50662	Private Citizen	Proposed Alternatives	<b>SynGest, Inc.:</b> "Establishment payments" would apply to the necessary equipment needed to harvest the food as well as the biomass portion of a crop. In most cases, existing harvesting equipment can easily be modified or enhanced to establish this production. However, the BCAP provision for per ton delivered matching payments is insufficient alone to provide the incentive needed to rapidly develop the market for biomass for renewable biofuels and bioproducts.
California	Jim	Burk	95825	Other	Proposed Alternatives	<b>JEB Consulting, Inc.:</b> Supports Action Alternative 2, Broad National Implementation, and believes it is critical that BCAP



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						encompass a broad national scale.
California	Jim	Burk	95825	Other	Socio-economics	<b>JEB Consulting, Inc.:</b> In California, the costs of converting agricultural and forest residues have escalated while the revenue to existing biomass power plants has decreased, to the point where several existing biomass energy plants are in danger of financial collapse. Also, there have been instances where the costs on harvesting, processing and transporting agriculture and forest biomass feedstocks have made it uneconomical for the landowner to transport, and material has been left in the field or open burned. BCAP would help many of these existing biomass power plants sustain operation and encourage the development of new biomass power plants.
Kansas	Thomas	Robb	67951	Other	Other	<b>Abengoa Bioenergy:</b> USDA should implement the program in a timely manner in order to allow warm-season grass and an energy crop to be established (could take 2-4 years)
Kansas	Thomas	Robb	67951	Other	Proposed Alternatives	<b>Abengoa Bioenergy:</b> Supports a hybrid of Alternatives A and B: payments should be limited to eligible material delivered to biomass conversion facilities included in the BCAP area (costs too high outside a 50 mile radius); native prairie and farmland that has never been farmed should not be eligible (enough land is already available); there should not be a cap on the percent of cropland in a given county; greenhouse gas tests should be implemented because these facilities should meet any test; all biomass conversion facilities should be eligible for the program so that new energy feedstock crops may be established.
Kansas	Thomas	Robb	67951	Other	Proposed Alternatives	<b>Abengoa Bioenergy:</b> A technology and business plan should be driving which facilities can participate in BCAP project areas.
Kansas	Thomas	Robb	67951	Other	Proposed Alternatives	<b>Abengoa Bioenergy:</b> This program is needed as an incentive to landowners to cover their plant establishment risks to plant a new crop in large enough quantities to provide for the biomass conversion facilities.
Louisiana	Mike	Salassi	70808	Other	Proposed Alternatives	<b>LSU Ag Center:</b> There should be further definition on what it means for a transportation distance to be "economically feasible". What is economically feasible for one situation may not apply to another. There needs to be flexibility in this definition.

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Louisiana	Mike	Salassi	70808	Other	Proposed Alternatives	<b>LSU Ag Center:</b> There needs to be a narrow definition on what crop establishment cost is.
Louisiana	Steve	Templin	71409	Other	Socio-economics	<b>Templin Forestry:</b> Supports Alternative B because it supports new production facilities, which are producing new jobs.
Louisiana	Steve	Templin	71409	Other	Proposed Alternatives	<b>Templin Forestry:</b> New bio-industry production facilities should be at a disadvantage from existing energy producers, and standards should not be prohibitive toward new facilities trying to meet the standards of long range biomass commitment.
Pennsylvania	Dan	Arnett	16335	Other	Proposed Alternatives	Supports broad implementation with nonrestricting project size and feedstock costs or feedstock varieties, species, etc. He encourages utilizing different lands with different crops that have been developed by many different groups, not only as a healthy business model to have a wide range of feedstocks, but also for environmental health. Project areas should not be limited at all by their production, but more by the feasibility of their project in developing something new.
Iowa	Walter	Wendland	50401	Other	Proposed Alternatives	I'm a CEO of two ethanol plants representing over 2,000 individuals, a majority of them farmers. It seems very important that this project won't be fully successful without the use of crop residue to help support the switchgrass that's going to be produced as our industry is under a lot of pressure for indirect land use change. This would give our industry an extra boost with carbon credits we have to deal with, and as we produce higher yields, we produce more biomass. In the area I represent, the higher the residue content, the more plowing it takes to bury this residue, if we could take a portion of that we would not need the support of the per ton that switchgrass would.
Louisiana	Bill	Wieger	71405	Private Citizen	Other	Would like clarification on the time frame for this project. How many years are involved in this project and what are the risks? He would also like to know the objectives for the programs or a long list of details.
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	Consider adding a requirement that the harvest process be completed in a manner that meets an accepted definition of sustainability. Consider identifying feedstocks for which sustainability considerations are minimized as first generation

## Biomass Crop Assistance Program Public Comments

State	First Name	Last Name	Zip Code	Affiliation	Nature of Comment	Comment Summary
						feedstocks that qualify without restriction.
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	Consider adding a requirement that the transportation process have been completed in a manner that meets all requirements defined by local and federal authorities.
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	Payments for eligible materials should be administered in a manner that allows for flexibility in the business organizations that may perform the separate processes. In order to maximize the effectiveness of the payment, the support should be available to the organization performing the various operations, a portion of which will be performed by organizations other than the producer or end-user of the biomass. It will be more effective if this portion of BCAP assistance was available to a wider spectrum of business entities. One alternative may be to allow the end-user of the biomass to administer these BCAP payments based on individual contracts with supplier groups, with each contract specifying distribution of the payment to various combinations of producers, equipment operators, trucking firms, etc in proportion to the processes each is responsible for.
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	The definition of eligible material needs to be clearly defined in order to reduce uncertainty about whether or not crop residues are eligible.
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	Crop residues should be eligible because they are currently available, have the capability to enable rapid growth of the industry, have the capability to improve the carbon sequestration associated with agricultural production, and have the potential to improve the results of a greenhouse gas test of the energy from the grain.
Iowa	Mary	Andringa	50219	Private Citizen	Soil Quality	Harvesting crop residues using appropriate collection, harvest, and tillage practices, have the potential to improve soil quality
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	The proposal in Alternative A that suggests limiting BCAP project areas to align with already established conversion facilities producing only energy and biofuels is too restrictive and will limit growth and innovation.
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	The proposal in Alternative A that suggests capping acres at 25% within a given county is too restrictive and would have a

### Biomass Crop Assistance Program Public Comments

State	First Name	Last Name	Zip Code	Affiliation	Nature of Comment	Comment Summary
						significant impact on the financial model for a bio-processing facility.
Iowa	Mary	Andringa	50219	Private Citizen	Transportation	In many areas, the density of the available biomass is adequate to support a facility with relatively short transportation distance. This is very important for this industry.
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	The proposal in Alternative A that suggests biomass conversion facilities must meet the greenhouse gas test is too restrictive. Because an accepted definition of the greenhouse gas test is not established, this requirement will only serve to cause more uncertainty and will delay the advancement of this industry.
Iowa	Mary	Andringa	50219	Private Citizen	Proposed Alternatives	The proposal in Alternative A that suggests only commercial biomass conversion facilities would be allowed in BCAP project areas is too restrictive. A natural step in the development of conversion technologies is to operate systems at pilot scale.
Iowa	Matt	Eide	50312	Private Citizen	Proposed Alternatives	Would like the BCAP program to be fully funded, and believes all cellulosic materials need to be eligible, without restrictions, under the program.
Louisiana	Samuel	Pearce	71333	Private Citizen	Proposed Alternatives	It is important for other experimental crops be included in the BCAP payment group. Such crops include Sweet Sorghum/Sudan grass, Kenaf, Switchgrass, Elephant grass, Giant Reed, several energy cane experimental varieties, and GMO Eucalyptus. Some are invasive in other states, but not in Louisiana
Texas	Robert	Perez	78121	Private Citizen	Vegetation	Opposes the use of any non-native or invasive plants
Texas	Robert	Perez	78121	Private Citizen	Proposed Alternatives	Opposes working at cross purposes or otherwise negating the conservation gains of the farm bill and other conservation programs, especially CRP.
Texas	Robert	Perez	78121	Private Citizen	Wildlife	Supports maintaining biodiversity and ecological sustainability. Wildlife should be a co-equal resource value.
Colorado	Joseph	Regnery	80108	Private Citizen	Proposed Alternatives	Managed lands should be included in the BCAP program.. Harvesting the fields for bio energy instead of burning would significantly reduce emissions
Colorado	Joseph	Regnery	80108	Private Citizen	Socio-economics	Using managed lands in the BCAP program would allow the economy to benefit from additional energy and would reduce the cost to clear the fields. If this were implemented, the land

**Biomass Crop Assistance Program Public Comments**

State	First Name	Last Name	Zip Code	Affiliation	Nature of Comment	Comment Summary
						manager of the managed field should not be penalized a 25% reduction in CRP. Also, this would keep additional hay out of the hay market, preventing the market from being driven down.



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## **Appendix H: Civil Rights Impact Analysis**

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**CIVIL RIGHTS IMPACT ANALYSIS**  
**Biomass Crop Assistance Program**

**Agency:** U. S. Department of Agriculture (USDA)  
Farm Service Agency (FSA)

**Subject:** Civil Rights Impact Analysis  
Proposed Rule: 7 CFR Part 1450, Biomass Crop Assistance  
Program (BCAP)

**Background:**

The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) amended the Food Security Act (1985 Farm Bill) and authorized the Biomass Crop Assistance Program (BCAP). The purpose of BCAP is to provide a new opportunity: (1) for biomass conversion facilities or group(s) of producer(s) to propose the selection of project areas where producers of eligible crops of renewable biomass may apply to receive establishment payments of up to 75 percent of the establishment of eligible woody and non-woody perennial crops and annual payments for the production of eligible annual crops, and woody and non-woody perennial crops; and (2) for agricultural and forest land owners and operators within and beyond project areas to receive matching payments for the collection, harvest, storage, and transportation of eligible material that is sold to qualified biomass conversion facilities for the production of: heat, power, biobased products, or advanced biofuels.

For purposes of determining the BCAP project area and qualifying biomass conversion facilities, BCAP is available to producers and facilities in all 50 States and U.S. territories. The Secretary may provide establishment cost-share and annual production payments to contracted producers and matching payments to participating eligible material owners for fiscal years (FY) 2009 to 2012.

The 2008 Farm Bill provided duration for contracts and matching payment eligibility. Producers may enter into contracts with the Commodity Credit Corporation (CCC): (1) for the production of woody perennial crops, a term of up to 15 years; and (2) for the production of annual and non-woody perennial crops, a term of up to five years. Eligible material owners are able to receive matching payments for the two years following the issuance of their first matching payment.

Authority was also added for the selection of BCAP project areas. The 2008 Farm Bill identified an outline of eight stated criteria that BCAP project area

proposals must demonstrate in order to be eligible for selection. Designation of a BCAP project area will allow producers in that area the opportunity to receive crop establishment payments and annual production payments where applicable.

According to the 2008 Farm Bill, the BCAP project area selection criteria in the proposal should demonstrate the participation rate by: 1) beginning farmers or ranchers (as defined in accordance with section 343 (a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991 (a)); or 2) socially disadvantaged farmers or ranchers (as defined in section 2501 (e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279 (e))).

Finally, the BCAP, also in accordance with the 2008 Farm Bill, aims to, where possible, complement other assistance programs for the producers, biomass conversion facilities and eligible material owners.

**Agency Impact:**

This proposed rule impacts the Conservation and Environmental Programs Division (CEPD) and applicable State and county offices including the responsibility of FSA to:

- Be aware of the conditions specified by the regulations,
- Promote and administer the program fairly and equitably to eligible producers,
- Handle paperwork necessary for the proper functioning of the BCAP, and
- Follow rulemaking procedures.

**Producer and Eligible Material Owner Impact:**

Participation in BCAP is voluntary. The proposed rule is applicable to all producers, biomass conversion facilities, and eligible material owners that wish to participate in BCAP. Eligible producers potentially comprise several minorities. Eligible producers can be broken into two categories: 1) producers of woody perennial crops, such as tree farms; and 2) producers of non-woody perennial and annual crops, such as switch grass producers. USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age disability, sexual orientation, or marital or familial status. The following chart indicates the racial and ethnic breakdowns of eligible BCAP producers based on U.S. population:



	White	African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Some Other Race	Two or More Races	Hispanic or Latino
Total by Percent	78.7	12.8	1	4.4	0.1	2.0	1.0	15.0

**NOTE:** Numbers do not add to 100 percent because Hispanic includes persons of any race. Data based on 2006, U.S. Census Bureau Resident Population Estimates of the United States by Sex, Race, and Hispanic Origin.

Racial and ethnic data is provided for the State as a whole. FSA estimates that 25 to 35 percent of non-woody perennial and annual crop producers are women; data on female farmers is typically skewed as women may be counted differently if they apply alone versus if they are married and apply with their spouses. The following table provides total accepted Signup 33 Conservation Reserve Program (CRP), which CEPD determined is also representative of the potential BCAP non-woody perennial and annual crop producer participation as a whole, acres by State for each racial and ethnic group:

State	Amer. Indian Acres	Asian Amer. Acres	African Amer. Acres	Hispanic Acres	White Acres	Hawaii Pacific Acres	Unknown Race Acres	Multiple Races Acres	Accepted Offers Acres
AL	0.0	0.0	21	0.0	8,770	0.0	0.0	24	8,815
AR	43	0.0	26	0.0	11,136	0.0	96	0.0	11,301
CA	0.0	0.0	0.0	0.0	4,965	0.0	42	14	5,021
CO	0.0	0.0	0.0	82	80,992	0.0	694	223	81,991
FL	0.0	0.0	3	0.0	1,195	0.0	10	0.0	1,208
GA	0.0	0.0	29	0.0	12,358	0.0	0.0	34	12,421
ID	59	0.0	0.0	0.0	15,382	1	132	42	15,616
IL	126	0.0	0.0	33	32,567	0.0	280	89	33,095
IN	0.0	0.0	25	0.0	10,688	0.0	92	0.0	10,805
IA	156	0.0	95	41	40,355	0.0	345	110	41,102
KS	771	0.0	466	203	199,256	0.0	170	548	201,414
KY	0.0	0.0	14	0.0	6,232	0.0	0.0	17	6,263
LA	0.0	0.0	11	4	4,325	0.0	0.0	0.0	4,340
ME	0.0	0.0	0.0	0.0	110	0.0	0.0	0.0	110

State	Amer. Indian Acres	Asian Amer. Acres	African Amer. Acres	Hispanic Acres	White Acres	Hawaii Pacific Acres	Unknown Race Acres	Multiple Races Acres	Accepted Offers Acres
MD	0.0	1	2	0.0	264	0.0	0.0	0.0	267
MI	0.0	0.0	28	12	12,135	0.0	104	0.0	12,279
MN	0.0	2	0.0	0.0	39,266	0.0	336	108	39,712
MS	0.0	0.0	48	0.0	19,573	0.0	0.0	56	19,677
MO	0.0	0.0	97	0.0	41,831	0.0	360	114	42,402
MT	188	0.0	0.0	0.0	48,589	0.0	417	133	49,327
NE	234	0.0	0.0	61	60,386	0.0	517	165	61,363
NJ	0.0	0.0	0.0	0.0	*	0.0	0.0	0.0	*
NM	0.0	0.0	0.0	0.0	*	0.0	0.0	0.0	*
NY	0.0	1	0.0	0.0	2,269	0.0	0.0	7	2,277
NC	20	0.0	12	0.0	5,123	0.0	44	14	5,213
ND	164	0.0	0.0	0.0	42,436	0.0	364	116	43,080
OH	0.0	0.0	0.0	0.0	12,685	0.0	110	35	12,830
OK	0.0	0.0	88	0.0	37,310	0.0	320	103	37,821
OR	99	0.0	0.0	0.0	25,803	0.0	222	0.0	26,124
PA	0.0	0.0	0.0	0.0	844	0.0	0.0	3	847
SC	0.0	0.0	4	0.0	1,625	0.0	14	0.0	1,643
SD	178	0.0	0.0	0.0	45,653	0.0	391	125	46,347
TN	0.0	0.0	15	0.0	6,008	0.0	0.0	17	6,040
TX	0.0	0.0	133	58	57,092	0.0	489	157	57,929
UT	16	0.0	0.0	0.0	3,968	0.0	0.0	0.0	3,984
VA	0.0	0.0	6	0.0	2,744	0.0	23	8	2,781
WA	0.0	0.0	0.0	0.0	85,969	0.0	735	237	86,941
WV	0.0	0.0	0.0	0.0	158	0.0	0.0	0.0	158
WI	0.0	0.0	0.0	0.0	14,593	0.0	126	0.0	14,719
WV	0.0	0.0	0.0	0.0	*	0.0	0.0	0.0	*

State	Amer. Indian Acres	Asian Amer. Acres	African Amer. Acres	Hispanic Acres	White Acres	Hawaii Pacific Acres	Unknown Race Acres	Multiple Races Acres	Accepted Offers Acres
<b>Total</b>	<b>2,054</b>	<b>4</b>	<b>1,123</b>	<b>494</b>	<b>994,655</b>	<b>1</b>	<b>6,433</b>	<b>2,499</b>	<b>1,007,263</b>
<b>% of Total</b>	<b>0.2039</b>	<b>&lt;0.0001</b>	<b>0.115</b>	<b>0.0490</b>	<b>98.7483</b>	<b>&lt;0.0001</b>	<b>0.6387</b>	<b>0.2481</b>	

NOTE: Acreages are based on acreage accepted for Signup 33 enrollment. Signup 33 effective date is October 1, 2006. \* Data withheld to avoid disclosure of individual operations.

Based on the CRP Signup 33 data provided above, which CEPD determined is also representative of the potential BCAP non-woody perennial and annual crop producer participation as a whole, the following table provides estimates by CEPD (racial/ethnic breakdowns are difficult to determine because the CRP system will default to Non-Hispanic Caucasian if no race variable is entered):

	Ameri can Indian	Asian American	Africa American	Hispanic	White	Hawaii Pacific American	Unknown Races	Multiple Races
Percentage Conservation Reserve Program Offers Accepted	0.2039	<0.0001	0.1115	0.0490	98.7483	<0.0001%	0.6387%	0.2481

NOTE: Numbers do not add to 100 percent since Hispanic includes persons of any race and due to rounding.

Producers of woody perennial crops who will wish to participate and be eligible in BCAP typically will be owners of nonindustrial private forest lands, such as a privately held tree farm or forest landowners' cooperative. These producers can be a business entity, an individual, including Tribal members and Tribal entities, association, group, corporation, or other private legal entity.

Demographic information concerning this category of producers is found in the USDA Forest Service, Forest Inventory and Analysis Program, National Woodland Owner Survey, 2006. This report summarizes results from the U.S. Forest Service's National Woodland Owner Survey of the estimated 10 million family forest owners who own 264 million acres (35 percent) of forest land in the United States. Information was collected between 2002 and 2006.

Predominantly, private forest land holdings in the United States are found throughout the Southeast, Mid-Atlantic, Northeast, Upper Midwest, and California and the Pacific Northwest coastal region. The following map offers a depiction of the geographic distribution of private forestland, as well as National Forest land and public forest:





Based upon this geographic demography, racial and ethnic data is provided for those States as a whole where private forest land presence is significant. The following table provides an overview of the racial and ethnic data for all States as a whole, reporting the percentage total for each race and ethnicity in each State:

State	Hispanic	Amer. Indian	Asian Amer.	African Amer.	Hawaii Pacific	White	Multiple Race
AL	0	3	0	3	0	89	5
AK	0	0	0	0	0	100	0
AZ	0	0	0	0	0	100	0
AR	0	1	0	0	0	96	2
CA	0	0	1	0	0	89	10
CO	15	1	0	0	0	99	0
CT	0	0	0	0	0	100	0
DE	0	0	0	0	62	38	0
FL	5	1	1	3	0	94	0
GA	0	4	0	5	0	89	1
ID	0	0	0	0	0	100	0
IL	0	0	0	0	0	99	1
IN	0	0	0	0	0	96	3
IA	0	0	0	0	0	100	0
KS	0	0	0	0	0	100	0
KY	0	0	0	0	0	100	0

State	Hispanic	Amer. Indian	Asian Amer.	African Amer.	Hawaii Pacific	White	Multiple Race
LA	2	0	0	5	0	95	0
ME	0	0	0	0	0	100	0
MD	5	0	0	0	0	98	1
MA	0	0	0	0	0	98	2
MI	0	1	1	1	0	95	2
MN	0	0	0	0	0	97	3
MS	0	0	0	3	6	89	2
MO	0	0	0	0	0	97	3
MT	0	0	0	0	0	92	8
NE	0	2	0	0	0	98	0
NH	0	0	0	0	0	97	3
NJ	0	0	0	0	0	99	1
NM	21	0	0	0	0	100	0
NY	0	0	0	2	0	95	3
NC	0	0	0	1	1	96	2
ND	0	0	0	0	0	100	0
OH	1	0	0	0	0	95	4
OK	0	3	0	0	0	94	3
OR	11	4	0	0	0	92	5
PA	1	0	0	0	0	99	0
RI	6	1	0	0	0	98	1
SC	0	0	0	17	0	82	1
SD	0	0	0	0	0	100	0
TN	0	0	0	0	0	94	6
TX	2	0	0	3	0	95	2
UT	0	0	6	0	0	94	0
VT	0	0	0	0	0	99	1
VA	1	0	0	10	0	89	1
WA	0	0	2	0	0	88	10
WV	1	0	0	0	0	95	5
WI	0	0	0	0	0	100	0
WY	0	0	0	0	0	100	0
<b>Total by Percent</b>	<b>1.5</b>	<b>0.5</b>	<b>0.2</b>	<b>1.1</b>	<b>1.5</b>	<b>95</b>	<b>2</b>

\* The data is simply a reformatted version of what is in Butler, B.J. 2008, *Family Forest Owners of the United States, 2006*. U.S. Department of Agriculture, Forest Service, Northern Research Station. Gen. Tech. Rep. NRS-27. 73 p. Please be aware that these results are estimates based on surveys. For States with smaller sample sizes, the data are less reliable. There is no data for HI, NV, west TX, west OK, nor interior AK. The data included for the latter three States is for only the areas surveyed. The report summarizes results from the U.S. Forest Service's National Woodland Owner Survey of the estimated 10 million family forest owner. Information was collected between 2002 and 2006.



Woody and non-woody producers who are excluded from enrollment in BCAP, in accordance with the 2008 Farm Bill, include: 1) producers who do not have eligible land for enrollment; 2) producers that are not in a BCAP project area; and, 3) producers who do not meet basic eligibility requirements for BCAP. BCAP project areas are not yet selected, so there are no estimates for the number of producers who are impacted by these exclusions.

It is likely that eligible material owners will often also be the producer or be closely associated with the woody and non-woody producers. Therefore, in this analysis the producer data supplies a sufficient base to assume the racial and ethnic population distribution amongst eligible material owners. Eligible material owners typically can also be a business entity or owned by an individual, including Tribal members and Tribal entities, and can be privately or publicly held. The eligible material owner opportunity is available nation-wide and potentially will comprise several minorities.

#### **Biomass Conversion Facility Impacts**

Biomass conversion facilities may be a part of BCAP in two capacities: 1) the facility may sponsor a proposal for a BCAP project area; and 2) the facility may enter into an agreement with CCC through FSA to become a qualified biomass conversion facility and participate by purchasing and converting eligible materials from eligible material owners. In neither capacity does the facility receive any direct payment for volunteering to participate.

Biomass conversion facilities typically can be a business entity or owned by an individual, including Tribal members and Tribal entities, and can be privately or publicly held. It is not known how many biomass conversion facilities will voluntarily participate at this time. Thus, data is not available on the biomass conversion facilities that potentially will wish to participate in BCAP. However, biomass conversion facilities nation-wide are eligible to participate and potentially will comprise several minorities.

#### **Civil Rights Impact Determination:**

The major civil rights implications of this rule are summarized in the following paragraphs. No disparate treatment to women, minorities, or other protected classes would likely result from the rule's provisions.

#### **Eligibility Criteria and Determinations**

The eligibility criteria are sound and reasonable for the distribution of Federal funds. Because the criteria for participation are being established by regulatory

means, there would be no subjective component inherent in it to obscure the fair and equitable distribution of funds.

Further, use of the State committees or State offices to review local decisions made at the county office level aids in the checks and balances and helps to prevent discriminatory behavior or favoritism.

In addition, FSA county committees are required to ensure that all groups of producers are represented on the county committee, including women and minorities. The county committee will recommend a county committee advisor (previously termed "minority advisor") as necessary to ensure that the interest of under-represented producers are fairly represented. This includes the appointment of a tribal representative as a county committee advisor to represent Native American interests in the county or area.

#### Deadline for Applications

The Deputy Administrator for Farm Programs is empowered to waive or modify deadlines (except for statutory deadlines) and other program requirements in cases where lateness or failure to meet other requirements do not adversely affect operation of the program. The deadline is uniform for all applicants and any extension of this deadline would be established by the Deputy Administrator for Farm Programs rather than individual States or counties establishing deadlines, potentially in an arbitrary and capricious manner.

#### Communications to Public

The rule is to be announced via traditional means of *Federal Register* notice. In addition, FSA issues press releases to national news agencies. FSA also routinely provides information directly by fax to national interest groups and agriculture advocacy groups on significant rules. Publications, such as the *Progressive Farmer* magazine, typically publish articles on proposed and final rules and other matters of interest. Farm reports of newspapers, radio, and TV stations in farming communities frequently report on proposed, interim, and final rules of FSA.

The FSA national office also contacts the national media for possible coverage. FSA data shows that 37 land grant colleges, 87 coalitions, and 487 ministries are used as contacts for outreach efforts. Other groups which specialize in aiding women, Hispanics, and other minorities are used routinely to publicize program to minorities.

CEPD maintains an aggressive public information campaign which includes fact sheets and publications that are posted or otherwise available through local



offices. Fact sheets are translated into Spanish, Hmong, or other languages in counties where appropriate. CEPD also maintains a public website for the BCAP.

#### Consideration of Public Sentiment

The proposed rule's publication opens a comment period as part of the rulemaking process. The comment period is planned for 30 days. After the comment period is concluded, FSA will consider the comments and then issue a final rule. The preamble of the final rule will address any comments which are received. FSA is bound by applicable rulemaking procedures to solicit and respond to comments. As planned, no disparate behavior can be reasonably anticipated from these notification plans.

A shorter comment period other than the one which is planned may present some concerns. The *Federal Register* is an official means for the Government to inform interested parties to solicit their input. A short comment period such as 10 days does not permit a potential commenter much time to learn about the program and comment on it. FSA's Office of Civil Rights (FSA OCR) notes that the length of the comment period comports with that of other Federal agencies.

#### Outreach

The Outreach Office works in close coordination with 37 community based organizations, non-profit organizations, and non-government organizations farm groups, land grant institutions and other universities of higher education to assist small, limited-resources and underserved farmers and ranchers. The Outreach Office has provided funding to the 37 organizations and institutions to protect, support and increase the economic viability of the targeted groups of farmers and ranchers by helping them to become more efficient operators and receive access to FSA programs.

Specific plans for outreach for BCAP will include information disseminated through land grant colleges, local news media, county office newsletters, and town hall meetings.

#### Paperwork Requirements

The proposed rule will implement some modest paperwork requirements to apply for the BCAP program; this would include forms for a BCAP biomass conversion facility qualification, matching payment application and payment forms, and producer contract. The FSA OCR considers the paperwork burden (less than an hour per person) to be minimal. When necessary, FSA employees assist a producer, eligible material owner, and biomass conversion facility with the completion of an application. Further, many service centers have cooperative

arrangements with nearby 1890 universities and extension service to assist farmers with paperwork requirements. In accordance with the Freedom to E-File Act, FSA has posted applications, along with plain language completion instructions, on its internet website. No disparate impact is anticipated from the paperwork requirements.

Producers, eligible material owners, and biomass conversion facilities may request the application by mail, telephone, or facsimile from their designated county FSA office or they may obtain the application via the Internet. An individual may request information or application in an alternative medium (audiotape, large print, Braille) through the county offices or from the USDA Target Center. The completed application can be returned in person, by mail, or by facsimile.

#### Appeal of Adverse Decisions

The USDA regulations provide producers and eligible material owners with the right to appeal adverse decisions. The rule includes a provision on appeals.

#### Accountability and Oversight

State Executive Directors, county executive directors, and FSA state and county committees do not have the authority to modify or waive any of the provisions of the BCAP regulations in 7 CFR part 1450 unless specifically authorized by the Deputy Administrator for Farm Programs, or the designee.

Further, the County Operations Review Program serves as an internal auditing function to ensure compliance with the regulations and guidance and the Office of Inspector General and General Accounting Office independently review BCAP.

#### Conclusion:

It is the opinion of this office that the proposed rule for BCAP will not adversely nor disproportionately impact minorities, women, or persons with disabilities by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. Communication vehicles are in place to assure that all producers have adequate information about this rule.

#### Action:

No further action on the part of this office is required.

**Certification:**

I certify that the regulation has been reviewed according to the Departmental Regulation 4300-4, and the analysis and recommendations as required under that regulation are part of this certification.

Name: Jacqueline Micheli Date 8-28-09  
for: Johnny R. Toles, Jr.  
Director  
Office of Civil Rights  
Farm Service Agency



**Appendix I:  
Land Resource Region Descriptions**

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### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
<b>Northwestern Forest, Forage, and Specialty Crop Region (Region A)</b>	This region lies in the northwestern U.S., encompassing portions of California, Oregon, and Washington along with two major mountain systems. Additional land features include foothills, valleys, marine coastline and inland waterways, including the Puget Sound (see Figure 3.2-1). The agriculturally rich Willamette Valley separates the Cascade mountain system in the west from the Coast Range mountain system in the east; the Coast Range is anchored on the north by the Olympic Mountains and on the south by the Klamath Mountains. This land resource region is characterized by extremes in elevation [from mean sea level to over 14,000 feet above mean sea level (AMSL)] and rainfall patterns (nine to 25 inches per year east of the Cascade Mountains, 100 to 250 inches per year in the mountains) (NRCS 2006). Approximately 44 percent of the region is Federal land, with national forest designation.	Vegetation is composed of various forest, prairie, grassland, and savanna species. Evergreen trees are the predominant vegetation (65 percent), and are heavily used in timber production. Forested montane areas are primarily composed of Douglas-fir ( <i>Pseudotsuga menziesii</i> ), western red cedar ( <i>Thuja plicata</i> ), western hemlock ( <i>Tsuga heterophylla</i> ), and red alder ( <i>Alnus rubra</i> ); Sitka spruce ( <i>Picea sitchensis</i> ) and redwood ( <i>Sequoia</i> spp.) belts run along the coastal states (NRCS 2006). Dominant grassland species include a variety of brome or cheat grasses ( <i>Bromus</i> spp.), bluegrass ( <i>Poa</i> spp.), and fescue ( <i>Festuca</i> spp.) species. Grain crops, grass and legume seeds, fruits, and horticultural specialty crops are grown extensively in the drier valleys (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.	The largest portion of Region A is managed by various Federal entities, and therefore conservation practices throughout the rest of the region should focus on native wildlife and their associated habitats (Oberbillig n.d.). The diversity of this region supports game and non-game species. Large mammals such as the black-tailed mule deer ( <i>Odocoileus hemionus</i> ) provide plentiful hunting opportunities in forested habitats. Gamebird hunting is another economic opportunity in the areas comprised of prairies and savannas where species such as the California quail ( <i>Callipepla californica</i> ) and ringneck pheasant ( <i>Phasianus colchicus</i> ) reside. The Oregon SWAP lists 226 state animal species or populations of conservation concern including the greater sage-grouse ( <i>Centrocercus urophasianus</i> ), willow flycatcher ( <i>Empidonax traillii</i> ), Northern Marten ( <i>Martes Americana</i> ) and many trout species (from Oregon SWAP summary).
<b>Northwestern Wheat and Range Region (Region B)</b>	This region lies in the northwestern U.S., encompassing portions of Idaho (the majority of acreage), Oregon, Washington, and a small section of Utah. Primary land features are dry	Shrubland composes the majority of the vegetation (52 percent), along with grasses and forbs (13 percent). Rangeland areas of mostly prairies and plateaus support shrub-grass plant	The largest portion of Region B is cropland and areas suitable for grazing, but these areas also provide valuable habitat for pronghorn antelope ( <i>Antilocapra americana</i> ), bighorn

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Resource Region	General Description	Vegetation Species	Animal Species
	plateaus, incised river valleys, and a few isolated mountain ranges. Elevation ranges from 300 to 12,000 feet AMSL, and average annual rainfall is six to 20 inches; rainfall in the mountains ranges from 45 to 85 inches per year (NRCS 2006). Approximately 29 percent of the region is Federal land, used for grazing.	communities dominated by snowberry ( <i>Symphoricarpos</i> spp.) in the eastern part of the region, sagebrush species ( <i>Artemisia</i> spp.) in the western part of the region and bluebunch wheatgrass ( <i>Pseudoroegneria spicata</i> ) and Idaho fescue ( <i>Festuca idahoensis</i> ) throughout (NRCS 2006). Douglas-fir, aspen ( <i>Populus tremuloides</i> ), and ponderosa pine ( <i>Pinus ponderosa</i> ) are common on the few forested rocky slopes of the region (NRCS 2006). Western juniper ( <i>Juniperus occidentalis</i> ) is increasing its range in Oregon as wildfire suppression changes the landscape. Crops and grazing are the predominant uses of land. Wheat grown by dry farming methods is the major crop in the region; however, oats, barley, lentils, and peas are also important crops. Fruits, mainly apples, are a major crop in the western part of the region. Potatoes, sugar beets, beans, and forage crops are grown under irrigation in the central Columbia basin in Washington and along the Snake River in Idaho (NRCS 2006). A variety of specialty crops are grown in local areas, including vegetables, vegetable seeds, mint, and hops. Grazing is the major land use in the drier parts of the region. Table 3.2-1 provides vegetation land cover types by this region.	sheep ( <i>Ovis canadensis</i> ), and mule deer. These open areas are rich in small mammal and grassland bird diversity, where species such as the pygmy rabbit ( <i>Brachylagus idahoensis</i> ) and horned lark ( <i>Eremophila alpestris</i> ) are commonly observed (Oberbillig n.d.). The Idaho SWAP lists 229 state animal species or populations of conservation concern including the grasshopper sparrow ( <i>Ammodramus savannarum</i> ), yellow-billed cuckoo ( <i>Coccyzus americanus</i> ) and pygmy rabbit.

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Resource Region	General Description	Vegetation Species	Animal Species
<b>California Subtropical Fruit, Truck, and Specialty Crop Region (Region C)</b>	<p>This region lies entirely within the state of California, bordered by the Pacific Ocean and characterized by low mountains and broad valleys. The growing season is relatively long and rainfall low; average annual rainfall varies from six to 12 inches in the southern end of the region to 15 to 40 inches in the northern end. Approximately 16 percent of the region is Federal land, primarily in the Southern California Mountains.</p>	<p>Grasses and forbs compose the majority of the vegetation (32 percent), along with shrubland (20 percent). In lower elevations dominant vegetation is composed of brome grasses, wild oats (<i>Avena</i> spp.), fescue, stork's bill herb (<i>Erodium</i> spp.), and burclover (<i>Medicago polymorpha</i>) dominate (NRCS 2006). A variety of oaks (<i>Quercus</i> spp.) and remnant redwoods are found in central California. Salt-tolerant brush and grass species are common in coastal, valley, and delta areas. A mixture of pines (<i>Pinus</i> spp.), Douglas-fir, incense cedar (<i>Calocedrus decurrens</i>), and various oaks grow at subalpine elevations in the Southern California Mountains (NRCS 2006). The rare Torrey pine (<i>Pinus torreyana</i>) can be found in a small area along the coastal plain. Small islands off of the southern coast of California are dominated by nonnative needlegrasses (<i>Achnatherum</i> spp.), oak, pine, and shrubs.</p> <p>Agricultural enterprises are plentiful, with a wide variety of crops grown (NRCS 2006). Citrus fruits, other subtropical and tropical fruits, and nuts are the major crops in the southern half of the region. Many kinds of vegetables, grown mainly under</p>	<p>California is home to a great deal of biodiversity, and is home to 222 species of mammal, 391 species of birds, and 160 reptile and amphibian species. The majority of Region C is agricultural in nature making it a good source for burrowing small mammals like the western pocket gopher (<i>Thomomys bottae</i>) and for species that do well in hot, dry landscapes such as the black-tailed jackrabbit (<i>Lepus californicus</i>) (Oberbillig n.d.). The California SWAP lists 807 state animal species or populations of conservation concern including tricolored blackbird (<i>Agelaius tricolor</i>), mountain plover (<i>Charadrius montanus</i>), and southern rubber boa (<i>Charina umbratica</i>).</p>



### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
		irrigation, are produced throughout the region. Rice, sugar beets, cotton, grain crops, and hay also are important crops. Dairying is a major enterprise near the large cities. Beef cattle production on feedlots and rangeland also is important. Many of the soils on floodplains and low terraces in the valley of the San Joaquin River are affected by salts and must be skillfully managed for good crop production (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.	
<b>Western Range and Irrigated Region (Region D)</b>	This region is characterized as a semi-desert or desert region of plateaus, plains, basins, and isolated mountain ranges found in the Rocky Mountain and Southwest states including Nevada and Arizona. Elevation ranges from 275 feet below mean sea level to over 11,500 feet AMSL (NRCS 2006). Approximately 60 percent of the region is Federal land, used primarily for grazing.	Shrubland composes the majority of the vegetation (71 percent), along with evergreen trees (14 percent), and grasses and forbs (12 percent) (NRCS 2006). Grasslands are found throughout the region. Landscapes throughout most of the region typically exhibit saltbush-greasewood ( <i>Atriplex</i> spp. – <i>Sarcobatus</i> spp.) community types in the lowest and driest areas, sagebrush communities in mid-elevation wetter climates, and pinyon pine-juniper ( <i>Pinus</i> spp.- <i>Juniperus</i> spp.) woodland vegetation in the highest and wettest areas. In the Southern Cascade Mountains vegetation ranges from mixed conifer	The combination of arid habitat and grazing of rangeland in this region make the management for native wildlife particularly critical, and the greatest proportion of this region is owned by the public and managed under various federal land management agencies. Common species that inhabit the semidesert grasslands, which comprise a large percentage of this region and house a large portion of the region's biodiversity, include the grasshopper sparrow, desert bighorn sheep ( <i>Ovis canadensis nelsoni</i> ) and prairie falcon ( <i>Falco mexicanus</i> ). The Arizona SWAP lists 183 state animal species of

### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
		<p>forests to oak grasslands to wet, woodland, and dry meadows (NRCS 2006). Much of the Great Salt Lake area is nearly barren. Many portions of Region D are characterized as deserts. A number of species are endemic and specific to the microclimates of the Lower Colorado Desert (NRCS 2006). Salt-desert zone vegetation is common in the desert basins, plateaus, and surrounding iodine flats. The central part of Region D transitions from desert scrub to high elevation (approx. 11,000 feet AMSL) mountain range dominated by ponderosa pine, spruce (<i>Picea</i> spp.), fir (<i>Abies</i> spp.), and other alpine vegetation. Southeastern Arizona and the Sonoran Desert area support forest, savanna, and desert shrub vegetation and contain numerous species common to Mexico (NRCS 2006).</p> <p>Irrigated crops are grown in areas where water is available and the soils are suitable. Feed crops for livestock are grown on much of the irrigated land. Peas, beans, and sugar beets are grown in many areas. Cotton and citrus fruits are important crops in southwestern Arizona (NRCS 2006). The major resource management concerns on cropland include soil</p>	<p>greatest conservation need. Management focused on acquiring conservation easements to protect native species and prevent the expansion of invasive species into areas of native habitat should be important (Oberbillig n.d.). Given the uniqueness of the region's biodiversity, the development of plans that protect native wildlife not covered under other plans and agencies should be a primary goal. The maintenance of sufficient forage for wildlife should be focused upon given the limited hydrological conditions relative to the rest of the country (Oberbillig n.d.). Other species commonly seen throughout the desert and montane areas in this region include the mule deer, long-eared owl (<i>Asio otus</i>) and sooty grouse (<i>Dendragapus fuliginosus</i>). Also of importance to native wildlife is the maintenance of travel corridors between areas of patchy resources.</p>

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Resource Region	General Description	Vegetation Species	Animal Species
		productivity and the content of salts and sodium in the soils. Table 3.2-1 provides vegetation land cover types by this region.	
<b>Rocky Mountain Range and Forest Region (Region E)</b>	This region follows the Rocky Mountains from the border with Canada, south into New Mexico. The region is characterized by steep, rugged mountains, high elevation valleys and both natural and man-made lakes. Elevation ranges from 5,000 feet AMSL to over 14,000 feet AMSL, and average annual rainfall ranges from nine inches in the valleys to over 63 inches in the mountains (NRCS 2006). Approximately 60 percent of the region is Federal land. Grazing is the leading land use in the valleys and mountains, but timber production is important on some of the forested mountain slopes. Recreation is an important use throughout the region (NRCS 2006).	Evergreen trees are the predominant vegetation (48 percent), with lodgepole pine ( <i>Pinus contorta</i> ), ponderosa pine, fir, spruce, and alpine meadow vegetation. <b>Error! Bookmark not defined.</b> predominating at the highest elevations. In the region's valleys and foothills, shrub-grassland vegetation such as wheatgrass ( <i>Agropyron</i> spp.), fescue, and bearded wheatgrass ( <i>Elymus caninus</i> ) are common (NRCS 2006). High intermountain valleys support desert-shrub vegetation including salt-tolerant species and big sagebrush. Warm season herbaceous species become more typical in the southern portion of Region E. Timber production is important on some of the forested mountain slopes. Some of the valleys are irrigated, and some are dry-farmed. Grain and forage for livestock are the main crops. Beans, sugar beets, peas, and seed crops are grown in areas where soils, climate, and markets are favorable	This region is high elevation rangeland primarily, the majority of which is under federal ownership. The grassland areas that lie on fertile land within the valleys and riparian areas are those prized both by agriculture and wildlife. The discord created by large scale disturbance to native habitat in this area should be a primary concern. The Montana SWAP lists 60 state animal species of conservation concern. The ecological complexity surrounding the grasslands of this region are highly interconnected from top to bottom, and contain northern leopard frogs ( <i>Rana pipiens</i> ), smooth green snakes ( <i>Opheodrys vernalis</i> ), ground squirrel ( <i>Cynomys</i> and <i>Spermophilis</i> spp.), and American badger ( <i>Taxidea taxus</i> ) as key indicator species (Oberbillig n.d.). These fertile rangelands are important to mule deer and elk ( <i>Cervus canadensis</i> ). The loss of habitat and the prevention of large scale alterations to the natural cycling of

### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
		(NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.	nutrients are vital to protecting the ecological integrity and biodiversity of the region. Coordination to prevent the degradation of grassland habitat for native species like the common kingsnake ( <i>Lampropeltis getula</i> ) and burrowing owl ( <i>Athene cunicularia</i> ) should be important, along with a comprehensive approach to maintain the integrity of native grasslands in the region (Oberbillig n.d.).
<b>Northern Great Plains Spring Wheat Region (Region F)</b>	This region encompasses portions of Montana, North Dakota, South Dakota, and Wisconsin and is characterized by undulating terrain, incised river valleys, coulees and in the east, the Red River valley. Elevation ranges from 650 to 4,600 feet AMSL. The Northern Great Plains are virtually all dryland farmed and ranched, depending on little rainfall. The mean annual precipitation in most of the region is 14 to 21 inches. About 30 percent of the annual precipitation occurs as snow during the winter, and the rest occurs during the growing season. Approximately 96 percent of the region is privately owned.	Grasses and forbs compose the majority of the vegetation (32 percent); native vegetation <b>Error! Bookmark not defined.</b> consists primarily of mixed and tall prairie grasses including wheatgrass ( <i>Agropyron</i> spp.), needlegrass ( <i>Stipa</i> spp.), big bluestem ( <i>Andropogon</i> spp.), little bluestem ( <i>Schizachyrium</i> spp.) and grama ( <i>Bouteloua</i> spp.) (NRCS 2006). Deciduous trees, primarily cottonwood ( <i>Populus deltoides</i> ), green ash ( <i>Fraxinus pennsylvanica</i> ), basswood ( <i>Tilia</i> spp.), elm ( <i>Ulmus</i> spp.), and bur oak ( <i>Quercus macrocarpa</i> ), have limited distribution (one percent). Crops are generally grown without irrigation (NRCS 2006). Spring wheat is the primary crop grown in the region. Other crops include: spring-planted	Very little public land exists in this region, which under the BCAP program will mean that it is vital for private landowners to be presented with conversion options that protect the native habitat. This is the region known best for prairie habitat from one end of the horizon to another (Oberbillig n.d.). The North Dakota SWAP lists 100 state animal species of conservation priority including Baird's sparrow ( <i>Ammodramus bairdii</i> ), grasshopper sparrow, marbled godwit ( <i>Limosa fedoa</i> ), Plains Spadefoot ( <i>Spea bombifrons</i> ) and Richardson's ground squirrel ( <i>Spermophilus richardsonii</i> ). Region F is a place of open spaces and rolling grasslands that relies upon the tools and options given to private farmers and land owners for the

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Resource Region	General Description	Vegetation Species	Animal Species
		grains, flax, and hay. The Red River Valley can support growing potatoes, sugar beets, soybeans, and corn (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.	continued maintenance and prosperity of the regions biodiversity. Noxious weeds need to be held in check, native prairie preserved, natural hydrology maintained, and an effort to maintain large blocks of connected grasslands. Native wildlife from the white-tailed deer ( <i>Odocoileus virginianus</i> ) and the cottontail rabbit ( <i>Sylvilagus floridanus</i> ) to Northern pintail ( <i>Anas acuta</i> ) and mallard ( <i>Anas platyrhynchos</i> ) will benefit from a synergistic approach to management (Oberbillig n.d.).
<b>Western Great Plains Range and Irrigated Region (Region G)</b>	This region encompasses portions of 10 states, from New Mexico to Montana, comprising a significant part of the Great Plains. Characteristic land features include rolling high plains, shale plains, sand dunes and eroded tablelands and dome mountains in the north to arid highlands, high plains, and river valleys in the south (NRCS 2006). Elevation ranges from 1,970 to 7,800 feet AMSL. The amount of precipitation in this region typically is low because much of the region is on the leeward side of mountains. The average annual precipitation is 13 to 22 inches in most of the region. Approximately 88 percent of the region is privately owned. Cattle and some	Grasses and forbs compose the majority of the vegetation (72 percent). Tall prairie grasses predominate in the northern areas; mixed native grasses, forbs and shrubs predominate in the central areas, and mixed short and mid prairie grasses predominate in the southern areas (NRCS 2006). Ponderosa pine, pinion and juniper communities occur on higher elevations (NRCS 2006). Boxelder ( <i>Acer negundo</i> ), green ash, willow ( <i>Salix</i> spp.) and plains cottonwood ( <i>Populus deltoides</i> ssp. <i>monilifera</i> ) are prevalent in riparian areas. Cattle and some sheep grazing are the predominant uses of the land. Limited amounts of winter wheat and other	This is another region where the largest portion of land is privately owned and managed, and is comprised of various shortgrass and tallgrass prairie. Species closely associated with these areas include the American bald eagle ( <i>Haliaeetus leucocephalus</i> ), scaled quail ( <i>Callipepla squamata</i> ), sandhill crane ( <i>Grus canadensis</i> ) and mule deer. Grazing is a large portion of the type of use these extensive lands are subjected to, and it will benefit native wildlife to ensure the fluid communication and sharing of information between private, public and agricultural land managers (Oberbillig n.d.). The New Mexico SWAP lists 452



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Resource Region	General Description	Vegetation Species	Animal Species
	sheep grazing are the predominant uses of the land.	small grain is raised without irrigation for cash or feed (NRCS 2006). Corn, alfalfa, forage crops, and sugar beets are grown with irrigation near major streams. Table 3.2-1 provides vegetation land cover types by this region.	state animal species of greatest conservation concern. The establishment of a system that ensures long-term ecological sustainability will be the best way to benefit wildlife like the coyote ( <i>Canis latrans</i> ), black-tailed prairie dog ( <i>Cynomys ludovicianus</i> ), and black-footed ferret ( <i>Mustela nigripes</i> ). Fragmentation can negatively affect many of the native wildlife species like sharp-tailed grouse ( <i>Tympanuchus phasianellus</i> ) and Greater sage-grouse found in the region (Oberbillig n.d.).
<b>Central Great Plains Winter Wheat and Range Region (Region H)</b>	This region encompasses seven states with the majority of acreage in Kansas (NRCS 2006). Hills, plains, and prairies characterize this region; nearly level to gently rolling fluvial plains are common in the north, with more eroded plateaus and entrenched streams in the south. Elevation ranges from 660 to 5,200 feet AMSL. The average rainfall in the central part of the Great Plains is 20 inches/year. The amount of precipitation in this region typically is low because much of the region is on the leeward side of mountains. The average annual precipitation ranges from 20 to 29 inches in most of the region.	Grasses and forbs compose the majority of the vegetation (44 percent) with vegetation dominated by native short, mid, and tall prairie grasses including big and little bluestem, and grama grasses (NRCS 2006). Winter wheat is prevalent in northern areas and indiangrass ( <i>Sorghastrum</i> spp.) and switchgrass are prevalent in southern areas. Cottonwood is limited to riparian areas throughout this region (NRCS 2006). In southern areas, woody species, predominately shin oak ( <i>Quercus harvardii</i> ), sage ( <i>Salvia</i> spp.), and skunkbush sumac ( <i>Rhus trilobata</i> ) form oak-savannahs. Most of the agricultural land in this	This dry, continental climate region supports a variety of wildlife, and again the majority is privately owned land used for grazing. The New Mexico SWAP lists 316 state animal species of greatest conservation concern. If species that inhabit the short-grass prairie's like lesser prairie chicken ( <i>Tympanuchus pallidicinctus</i> ), Ferruginous hawk ( <i>Buteo regalis</i> ), and loggerhead shrike ( <i>Lanius ludovicianus</i> ), are to be provided sufficient habitat then the cooperation and communication between public and private conservation managers is paramount (Oberbillig n.d.). The amount of land in the region under

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Resource Region	General Description	Vegetation Species	Animal Species
		region is used for beef cattle production. Winter wheat is raised in the region without irrigation. Corn, alfalfa, and other forage crops are grown with water from nearby major streams. Table 3.2-1 provides vegetation land cover types by this region.	agricultural usage will only intensify in future years, and species like the northern bobwhite quail ( <i>Colinus virginianus</i> ) and mourning dove ( <i>Zenaida macroura</i> ) will depend upon sufficient biodiversity to continue to persist within the region (Oberbillig n.d.). The short-grass prairie is a diverse ecosystem, and all levels of the native wildlife of the region from the small mammals that provide a critical prey base for the swift fox ( <i>Vulpes velox</i> ) and long-tailed weasel ( <i>Mustela frenata</i> ) to the Texas horned lizard ( <i>Phrynosoma cornutum</i> ) rely upon the integrity of these grasslands.
<b>Southwest Plateaus and Plains Range and Cotton Region (Region I)</b>	This region of approximately 72,340 square (sq) miles is found entirely in the state of Texas. It includes portions of the coastal plain and Rio Grande River valley as well as lands north of the Rio Grande marked by canyons, mesas, and valleys (NRCS 2006). Elevation ranges from sea level to 3,500 feet AMSL. The average annual precipitation ranges from 20 to 29 inches. Approximately 99 percent of the region is privately owned. Grazing is the dominant land use in most of the region.	Shrubland composes the majority of the vegetation (57 percent), followed by grasses and forbs (18 percent). Predominant grasses include grama, little bluestem, paspalum ( <i>Paspalum</i> spp.), switchgrass, indiagrass, curly mesquite ( <i>Hilaria</i> spp.), and trichloris ( <i>Trichloris</i> spp.) (NRCS 2006). Dominant tree and shrub genera include: scrub oaks ( <i>Quercus cornelius-mulleri</i> ), mesquite ( <i>Prosopis</i> spp.), juniper, hackberry ( <i>Celtis</i> spp.), and saltbush. Grazing is the dominant land use in most of the region, but wheat, grain	Lying entirely within the state of Texas, this region is heavily held in private ownership. This makes it critical for private landowners to be equally vested in wildlife and native habitat conservation, including but not limited to restoration of native habitat for species like the white-tailed deer, javelina ( <i>Pecari tajacu</i> ), raccoon ( <i>Procyon lotor</i> ) and wild turkey ( <i>Meleagris gallopavo</i> ) (Oberbillig n.d.). Common native species like the Cassin's sparrow ( <i>Aimophila cassinii</i> ) and eastern box turtle ( <i>Terrapene carolina carolina</i> ) rely upon the

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Resource Region	General Description	Vegetation Species	Animal Species
		sorghum, and other small grain crops are grown in areas where the soils, topography, and moisture supply are favorable. Irrigated cotton is an important crop in the southeastern part of the region. Citrus fruits and winter vegetables are grown in the lower Rio Grande Valley. Table 3.2-1 provides vegetation land cover types by this region.	integrity of these native prairies. The Texas SWAP lists 669 state animal species of conservation concern.
<b>Southwestern Prairies Cotton and Forage Region (Region J)</b>	This region ranges from the Wichita Mountains through cross timbers to the Texas Great and Blackland Plains. The northern and western parts of this region consist of gently rolling to hilly uplands dissected by numerous streams, and the rest of the region is mainly a nearly level to gently sloping, dissected plain. The Arbuckle and Wichita Mountains are in the northern part of the region (NRCS 2006). Elevation ranges from 200 to 2,020 feet AMSL. The average annual precipitation ranges from 31 to 44 inches. Approximately 98 percent of the region is privately owned. Grazing by beef cattle is the dominant land use in most of the region.	Grasses and forbs (21 percent) and deciduous trees (20 percent) compose the majority of the vegetation. Mid and tall prairie grasses, little and big bluestem, indiangrass, grama, and switchgrass, are interspersed with trees consisting primarily of oaks but also elm, maple ( <i>Acer</i> spp.), cottonwood, hackberry, and pecan ( <i>Carya illinoensis</i> ) (NRCS 2006). The southern part of this region has increasing diversity of shrubs and forbs. This is a transitional region blending Great Plains with more eastern vegetation. Grasslands include mixtures of range, pasture, and improved pasture (NRCS 2006). Grazing by beef cattle is the dominant land use in most of the region, but hay, grain sorghum, and small grains are grown in areas where the soils, topography, and moisture supply are favorable (NRCS 2006). Other locally	This area is characterized by private ownership and a matrix of western and eastern habitat types, a transition zone between two distinct regions, and along with this comes a large overlap of western and eastern wildlife species (Oberbillig n.d.). These areas are inhabited by prairie warblers ( <i>Dendroica discolor</i> ), scissor-tailed flycatchers ( <i>Tyrannus forficatus</i> ), long-tailed weasels ( <i>Mustela frenata</i> ) and bats ( <i>Myotis</i> spp.) (Oberbillig n.d.). The Texas SWAP lists 669 state animal species of conservation concern including the Mississippi kite ( <i>Ictinia mississippiensis</i> ) and River otter ( <i>Lutra canadensis</i> ).

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Resource Region	General Description	Vegetation Species	Animal Species
		important crops include corn, cotton, and peanuts. Pecans are grown on well drained soils that are not flooded very often and are on the higher terraces along many of the major rivers crossing the region (NRCS 2006). Vegetables are grown in areas where irrigation water is available. Table 3.2-1 provides vegetation land cover types by this region.	
<b>Northern Lake States Forest and Forage Region (Region K)</b>	This region is in the Central Lowland areas south and west of the western Great Lakes. It is a glaciated region with numerous lakes and wetlands. Approximately 90 percent of the region is privately owned (NRCS 2006). Elevation ranges from 580 to 2,100 feet AMSL. The average annual precipitation ranges from 26 to 34 inches. Federal land is primarily designated national forest. Approximately 90 percent of the region is privately owned. Water erosion, especially on cropland, is a major resource concern (NRCS 2006). Wind erosion is a hazard in areas of silty and sandy soils. Soil wetness, fertility, and tilth and protection of water quality are additional resource concerns.	Deciduous trees compose the majority of the vegetation (41 percent); this is a historically forested region characterized by mixed northern hardwood and coniferous forests, white pine-red pine ( <i>Pinus strobus</i> - <i>Pinus resinosa</i> ) forests, aspen-birch ( <i>Populus</i> spp.- <i>Betula</i> spp.) forests, xeric pine savannas, oak barrens, oak savannas, coniferous wetlands, and jack pine ( <i>Pinus banksiana</i> ) barrens (NRCS 2006). The unforested land is composed of converted cropland and a small amount of prairie grassland (grasses and forbs compose only one percent of the vegetation). Important crops include corn, wheat, alfalfa, oats, barley, and soybeans. Much of the forage and feed grain grown in the region is used by onsite dairy and beef cattle industries (NRCS	The majority of this region is forested, and is home to such well known species as the white-tailed deer, American woodcock ( <i>Scolopax minor</i> ), eastern gray squirrel ( <i>Sciurus carolinensis</i> ), and snowshoe hare ( <i>Lepus americanus</i> ). A history rich in fur trading, furbearers abound from the red fox ( <i>Vulpes vulpes</i> ) and bobcat ( <i>Lynx rufus</i> ) to the mink ( <i>Neovison vison</i> ), river otter ( <i>Lontra canadensis</i> ), fisher ( <i>Martes pennanti</i> ), and the ubiquitous beaver ( <i>Castor canadensis</i> ) (Oberbillig n.d.). Bird species are diverse in nature, but none is more tied to the sights and sounds of this regions biodiversity than the oft pursued ruffed grouse ( <i>Bonasa umbellus</i> ). The Wisconsin SWAP lists 655 state animal species of conservation need.

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Resource Region	General Description	Vegetation Species	Animal Species
		2006). Other locally important crops include sunflowers, potatoes, edible beans, sweet corn, peas, berries, and fruit. Table 3.2-1 provides vegetation land cover types by this region.	
<b>Lake States Fruit, Truck Crop, and Dairy Region (Region L)</b>	This region predominantly covers western and southwestern Michigan, northern Indiana, and land adjacent to the Great Lakes and Finger Lakes area (NRCS 2006). Elevation ranges from 330 to 1,310 feet AMSL. The average annual precipitation ranges from 30 to 41 inches. Approximately 99 percent of the region is privately owned.	<p>Northern hardwood forests are the dominant vegetation community within this region (24 percent) (NRCS 2006). Upland communities typically support mixed oak/pine communities. The varied wetland <b>Error! Bookmark not defined.</b> plant communities are composed of forests dominant in eastern hemlock (<i>Tsuga canadensis</i>), speckled alder (<i>Alnus incana</i> ssp. <i>rugosa</i>), and black spruce (<i>Picea mariana</i>) or forests of northern white-cedar (<i>Thuja occidentalis</i>), black ash (<i>Fraxinus nigra</i>), red maple (<i>Acer rubra</i>), and aspen (NRCS 2006).</p> <p>The soils and climate favor agriculture, and the region has a wide variety of agricultural enterprises; row crops account for 47 percent of the land use (NRCS 2006). Dairy farming is important, and some beef cattle are produced. Canning crops, corn, soft winter wheat, beans, and sugar beets are among the leading crops (NRCS 2006). Fruits, especially sour cherries, are important in a narrow belt adjacent to the Great Lakes, and wine grapes are grown in the Finger Lakes area. Much of the cropland near the larger</p>	This region is comprised of large tracts of public land, and its primary function is dairy production. Water in the form of thousands of lakes, rivers and streams dominate the landscape, and the mesic conditions associated with this region thus mean a rich biodiversity of mammal, bird, and invertebrate species. The Michigan SWAP lists 404 state animal species of conservation need. The brilliant Karner blue butterfly ( <i>Lycaeides melissa samuelis</i> ) decorates the prairies and savannahs, Kirtland's warblers ( <i>Dendroica kirtlandii</i> ) annually return to the same areas of jack pine forest to nest, the Eastern meadowlark ( <i>Sturnella magna</i> ) sings atop the grasslands in springtime, and the Fowler's toad ( <i>Bufo fowleri</i> ) makes its presence known after warm late spring rainstorms (Oberbillig n.d.). This is an area that comes alive with biodiversity.



### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
		cities is being subdivided and developed for urban uses. Table 3.2-1 provides vegetation land cover types by this region.	
<b>Central Feed Grains and Livestock Region (Region M)</b>	This region produces most of the corn, soybeans, and feed grains produced in the U.S. Some specialty crops are grown near markets in the metropolitan areas (NRCS 2006). Much of the cropland near the larger cities is being subdivided and developed for urban uses. Small areas in the parts of this region in southern Indiana and in Illinois are strip-mined for coal (NRCS 2006). Elevation ranges from 320 to 2,000 feet AMSL. The average annual precipitation ranges from 32 to 39 inches. Approximately 99 percent of the region is privately owned.	<p>The native vegetation (NRCS 2006) for this region consists of oak-hickory-maple and mixed mesic hardwood forests and prairie vegetation composed of big bluestem, little bluestem, indiagrass, green needlegrass (<i>Nassella viridula</i>), and switchgrass in lowlands and grama, muhly (<i>Muhlenbergia</i> spp.), lovegrass (<i>Eragrostis</i> spp.), and wheatgrass in uplands. Forbs are diverse in many areas of this region.</p> <p>The soils and climate in this region are favorable towards agriculture; row crops account for 57 percent of the land use. Grains and hay grown in the region commonly are fed to beef cattle. Table 3.2-1 provides vegetation land cover types by this region.</p>	This region is the heartland of America, the center of grain production, and therefore the regal fritillaries ( <i>Speyeria idalia</i> ) flit about the fields of switchgrass, which later in the year provide an abundant source of prey for red fox (Oberbillig n.d.). The Iowa SWAP lists 297 state animal species of conservation concern including the greater prairie-chicken, Franklin's ground squirrel and smooth green snake. Known for its potholes lakes and sinuous river bottoms, the region has a very diverse collection of waterfowl that utilize its resources as a vital stopover point during migration, and include the blue-winged teal ( <i>Anas discors</i> ), northern shoveler ( <i>Anas clypeata</i> ), and northern pintail ( <i>Anas acuta</i> ) (Oberbillig n.d.).

### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
<b>East and Central Farming and Forest Region (Region N)</b>	Diversity of topography and climate gives rise to a wide range of natural ecosystems and limits the amount of land available for production agriculture (NRCS 2006). This region lies in a number of states, ranging from Arkansas and Missouri to the west and through the Ohio River Basin northwards, staying on the western side of the Appalachian Mountains into Pennsylvania. Elevation ranges from 300 to 6,600 feet (at the crest of the Great Smoky and Black Mountain ranges) AMSL. The average annual precipitation ranges from 40 to 59 inches. Approximately 93 percent of the region is privately owned.	Deciduous trees compose the majority of the vegetation (54 percent), with oak/hickory forests a common community type throughout the region. At the highest elevations, however, coniferous forests (seven percent) are evident. Grasses and forbs compose 20 percent of the vegetation; glades in the knob, basin, and highland areas of the western portion of the region support warm-season grasses and are often invaded by eastern redcedar ( <i>Juniperus virginiana</i> ). Shortleaf and loblolly pine ( <i>Pinus echinata</i> and <i>Pinus taeda</i> ) dominate much of this area, especially at higher elevations. Relatively open oak savannas, white oaks ( <i>Quercus alba</i> ), red oaks ( <i>Quercus</i> spp.) and hickory ( <i>Carya</i> spp.) overstory and warm-season grasses in the understory, are found in the Arkansas Valley and Ridges (NRCS 2006). Cove forest species begin to dominate in the Kentucky and Indiana sandstone and shale hills and valleys where beech ( <i>Fagus grandifolia</i> ), maples, and yellow-poplar ( <i>Liriodendron tulipifera</i> ) are abundant. In the bottomland hardwood floodplain areas of the eastern portion of this region, cottonwood, sycamore ( <i>Platanus occidentalis</i> ), sweetgum	Many different habitats support a wide range of biodiversity in this region, and in this region biodiversity is managed to be maximized (Oberbillig n.d.). The Kentucky SWAP lists 251 state animal species of conservation concern. Highland forests are littered in springtime with migratory songbirds like the Cerulean warbler ( <i>Dendroica cerulea</i> ) and American redstart ( <i>Setophaga ruticilla</i> ). The region boasts a healthy population of white-tailed deer, wild turkey, and American bald eagles. The key here is to minimize the impacts of fragmentation on native wildlife, ensuring a continued richness of biodiversity (Oberbillig n.d.).

### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
		<p>(<i>Liquidambar styraciflua</i>), and river birch (<i>Betula nigra</i>) are common (NRCS 2006). Yellow-poplar and pine species become more important in the eastern part of the region with Virginia pine (<i>Pinus virginiana</i>), pitch pine (<i>Pinus rigida</i>), red spruce (<i>Picea rubens</i>) and eastern hemlock dominant at higher elevations. At the northern end of the Blue Ridge Mountain range, Appalachian red and white oaks are abundant. In the southern end of the Blue Ridge Mountains, oak/hickory forests dominate lower elevations and grade into pine, red spruce and Fraser fir (<i>Abies fraseri</i>) communities at the highest elevations at over 5,000 feet AMSL (NRCS 2006). Rare, shade-intolerant herbaceous and shrub species are found on heath balds at the highest points of the mountain range. Forestry is an important industry. Oak, yellow-poplar, and pine are the dominant trees harvested (NRCS 2006). Approximately 93 percent of the region is privately owned. The crops that are grown in this region include cotton, soybeans, corn, and wheat (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.</p>	

## Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
<b>Mississippi Delta Cotton and Feed Grains Region (Region O)</b>	This region is on smooth terraces and floodplains along the Mississippi River, with major tributaries south of the Mississippi's confluence with the Ohio River; the majority of this region consists of river alluvium and floodplain terraces. Elevation ranges from sea level to 330 feet AMSL. The average annual precipitation ranges from 47 to 62 inches. Approximately 97 percent of the region is privately owned (NRCS 2006).	Bottomland hardwood communities dominant in oaks and hickories transition to flooded swamps rich in species such as bald cypress ( <i>Taxodium distichum</i> ) and tupelo ( <i>Nyssa</i> spp.) (NRCS 2006). Floodplains along the Southern Mississippi River are dominant in yellow-poplar, white ash ( <i>Fraxinus americana</i> ), and cottonwood. Loblolly and shortleaf pine are typically dominant overstory species on upland ridges (NRCS 2006). Row crops are the predominant use of the land (73 percent); the diverse array of crops grown in the region includes cotton, soybeans, milo, corn, rice, sugarcane, and wheat (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.	The alluvial plain is fertile ground harboring a diverse array wildlife species. The Arkansas SWAP lists 369 state animal species of conservation need including 50 fish, 24 crayfish, and 78 bird species. The clubtail dragonfly ( <i>Gomphidae</i> spp.) is one of 1137 invertebrates in Arkansas (Oberbillig n.d.). Due to habitat fragmentation many bird species, like the painted bunting ( <i>Passerina ciris</i> ), fall victim to brown-headed cowbird nest parasitism. This region holds one of the last remaining strongholds of the eastern spotted skunk ( <i>Spilogale putorius</i> ). As is the case throughout North America where agriculture of any type creates areas of expansive monoculture, the white-tailed deer has become highly adaptable and closely associated with the region.
<b>South Atlantic and Gulf Slope Cash Crops, Forest, and Livestock Region (Region P)</b>	This region encompasses the coastal plain, valley, sandhills, and prairie landforms across the Southeastern U.S., from Virginia to Texas. Elevation ranges from 80 to 655 feet AMSL on the coastal plain and from 330 to 1,310 feet AMSL in the piedmont. The average annual precipitation ranges from 44 to 63 inches. Approximately 97 percent of the region is privately	This forested two-thirds (67 percent) of this region consists of hardwood (25 percent), evergreen (24 percent) and mixed pine-hardwood forest communities (18 percent) ( Table 3.2-1). Loblolly, longleaf ( <i>Pinus palustris</i> ), slash, and shortleaf pine species are common throughout most of the region (NRCS 2006). Coastal plain vegetation <b>Error! Bookmark not defined.</b> consists of mixed pine-	This region is one of the most biologically diverse in the nation. The longleaf pine system is a unique habitat with high biodiversity (Oberbillig n.d.). The Georgia SWAP lists 369 state animal species of conservation need. Species in this ecosystem are closely tied to the towering tree species presence in the region, including the red-cockaded

### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
	owned.	<p>hardwood communities dominant in loblolly pine, longleaf pine, yellow-poplar, and red oaks. The western coastal plain area supports similar deciduous hardwood species with few pine species (NRCS 2006). The unique soil and topography of the Carolina and Georgia sandhills creates conditions favorable for longleaf pine, turkey oak (<i>Quercus laevis</i>), bluejack oak (<i>Quercus incana</i>), blackjack oak (<i>Quercus marilandica</i>), and sand live oak (<i>Quercus geminate</i>). Ridges and ravines in southern Mississippi host beech-magnolia-holly (<i>Fagus</i> spp. – <i>Magnolia</i> spp.-<i>Ilex</i> spp.) forests (NRCS 2006). Overstory species in the floodplain</p> <p><b>Error! Bookmark not defined.</b>s of this area are dominant in yellow-poplar, white ash, and swamp chestnut (<i>Quercus michauxii</i>). In the Alabama and Mississippi Blackland Prairie, mixed oak and loblolly pine grow on acidic soils and floodplains while eastern redcedar dominates alkaline hillsides (NRCS 2006). Slightly less than a third (29 percent) of this regions vegetation is represented by a diverse array of combined pasture/hay (14 percent), rowcrops (14 percent), and small crops (&lt;1 percent) includes cotton, tobacco, soybeans, peanuts, corn, rice, sugarcane, and wheat (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.</p>	<p>woodpecker (<i>Picoides borealis</i>), northern bobwhite quail, dozens of reptile and amphibian species including the marbled salamander (<i>Ambystoma opacum</i>) and eastern hognose snake (<i>Heterodon platirhinos</i>), and mammals like the raccoon and bobcat (Oberbillig n.d.).</p>



### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
<b>Northeastern Forage and Forest Region (Region R)</b>	Plateaus, plains, and forested mountains characterize this New England region. The climate is generally cool and humid and most of the land in this region, especially the land in the steeper areas, is forested. Elevation ranges from sea level to 5,000 feet AMSL. The average annual precipitation ranges from 34 to 62 inches. Approximately 98 percent of the region is privately owned (NRCS 2006).	Deciduous trees compose the majority of the vegetation (42 percent), with primary forest types including northern beech-birch-sugar maple ( <i>Fagus</i> spp. – <i>Betula</i> spp. – <i>Acer saccharum</i> ) forest, northern hardwood, and mixed northern red spruce-eastern hemlock-balsam fir ( <i>Tsuga</i> spp. – <i>Abies balsamea</i> ) (NRCS 2006). Mesophytic oak-sugar maple, oak, and hemlock-pine-cedar stands occur on wetter soils (NRCS 2006). Abandoned agricultural lands in this region have been re-established by pine and birch forests (NRCS 2006). In areas where markets, climate, and soils are favorable, fruits, tobacco, potatoes, and vegetables are important crops (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.	Cooler climate and mesic conditions precipitate a host of forest associated species in this ecoregion. The black bear, mink, porcupine ( <i>Erethizon dorsatum</i> ), eastern cottontail ( <i>Sylvilagus floridanus</i> ) and beaver are all commonly found in the regions environment. Recreational opportunities from the wild turkey, ring-necked pheasant and ruffed grouse are important parts of the biodiversity and regional culture (Oberbillig n.d.). The region is a matrix of public and private land, but also has a larger density of people than many other parts of the country and therefore is inhabited by species like the Virginia opossum ( <i>Didelphis virginiana</i> ) and white-tailed deer that tolerate and thrive in a human dominated landscape.
<b>Northern Atlantic Slope Diversified Farming Region (Region S)</b>	This region ranges from New Jersey to Western Virginia, characterized by coastal lowland, coastal plain, piedmont, and ridge and valley land features. Forested mountains and valleys are common in the western and central portions, with lowlands and sandy dunes in the east. The climate is temperate and humid. Elevation ranges from sea level to 4,430 feet	Vegetation communities are dominated by hardwood forests (47 percent) and coastal plain species (NRCS 2006). With the exception of the northeast coastal lowland, primary woody species found throughout this region are deciduous hardwoods such as ash ( <i>Fraxinus</i> spp.), black oak ( <i>Quercus velutina</i> ), chestnut oak ( <i>Quercus prinus</i> ), red oak ( <i>Quercus rubra</i> ), white	Disturbance and urban development have fragmented this regions biodiversity, but in areas where farmland is the most common natural habitat generalist species like the muskrat ( <i>Ondatra zibethicus</i> ), red fox and American woodchuck ( <i>Marmota monax</i> ) thrive. The Pennsylvania SWAP lists 572 state animal species of conservation concern. There remain

### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
	<p>AMSL. The average annual precipitation is 37 to 45 inches in most of the region, but it is as high as 52 inches in the northeast corner of the region. Approximately 92 percent of the region is privately owned.</p>	<p>oak, hickory, tulip-poplar (<i>Liriodendron tulipifera</i>) and evergreen pine including eastern white pine (<i>Pinus strobus</i>), loblolly pine, shortleaf pine, and Virginia pine (NRCS 2006). Black cherry (<i>Prunus serotina</i>), eastern redcedar, pitch pine, red maple, sugar maple, southern red oak (<i>Quercus falcata</i>), and willow oak (<i>Quercus phellos</i>) are common further east. Dunes in the coastal lowland areas support American beach grass (<i>Ammophila breviligulata</i>), bayberry (<i>Morella cerifera</i>), sassafras (<i>Sassafras albidum</i>) and American holly (<i>Ilex opaca</i>) (NRCS 2006).</p> <p>Farming is highly diversified, from crops raised for the canning and frozen food industries by large-scale corporate farms to truck crops, fruits, and poultry; these are important sources of income, particularly on the coastal plains (NRCS 2006). Forage crops, soybeans, and grain for dairy and beef cattle also are important. Many landowners are part-time farmers, earning the majority of their living in the cities. Sites less suited for farming have been developed into rural residences, and throughout the region, urban areas are encroaching on farmland (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.</p>	<p>some large areas of intact forest, and these areas are home to species like the wood thrush (<i>Hylocichla mustelina</i>), white-tailed deer and raccoon (Oberbillig n.d.). Important game birds include ruffed grouse, ring-necked pheasant and mourning dove.</p>

### Land Resource Regions of the United States

Resource Region	General Description	Vegetation Species	Animal Species
<b>Atlantic and Gulf Coast Lowland Forest and Crop Region (Region T)</b>	<p>This region is characterized by coastal lowlands, coastal plains, and the Mississippi River Delta on the Gulf coast and coastal lowlands, coastal plains, drowned estuaries, tidal marshes, islands, and beaches along the Atlantic coast. Elevation ranges from sea level to 330 feet AMSL. The average annual precipitation is 42 to 54 inches. It commonly exceeds 65 inches along the Louisiana, Mississippi, and Alabama coastlines. 94 percent of the region is privately owned. Marketable commodities include tourism and significant deposits of salt in domes, natural gas, and petroleum buried beneath the Gulf coast surface (NRCS 2006). Recreation is a major industry, with the region's populace concentrated along the Gulf and Atlantic coasts. Loss of wetlands, cropland, and forestland due to urban development is a growing concern in these areas (NRCS 2006). Due to the high water table and predisposition to flooding, less than 10 percent of this region is farmed.</p>	<p>Evergreen tree species comprise the majority of the vegetation (33 percent), followed by deciduous trees (10 percent), with grasses more typical of the southwestern portion (NRCS 2006). Predominant woody species indicative of the flatwood and coastal plain areas in the east and south central portions include deciduous hardwoods such as black oak, post oak (<i>Quercus stellata</i>), southern red oak, Atlantic white cedar (<i>Chamaecyparis thyoides</i>), blackgum (<i>Nyssa sylvatica</i>), red maple, sweetgum; and evergreen pines such as loblolly pine, longleaf pine, pitch pine, and Virginia pine (NRCS 2006). Bald cypress is common in the lowlands. Common understory species are blueberry (<i>Vaccinium</i> spp.), greenbrier (<i>Smilax</i> spp.), holly (<i>Ilex</i> spp.), sassafras, sweet pepperbush (<i>Clethra alnifolia</i>), and wax myrtle. Little bluestem, indiagrass, switchgrass, and big bluestem are dominant grass species distributed throughout most of the region. Typical freshwater marsh vegetation includes alligatorweed (<i>Alternanthera philoxeroides</i>), spikerush (<i>Eleocharis</i> spp.), cutgrass (<i>Leersia</i> spp.), and bulltongue (<i>Sagittaria lancifolia</i>); brackish and saltwater vegetation is represented by saltgrass (<i>Distichlis spicata</i>), cordgrass (<i>Spartina</i> spp.), rushes (<i>Juncus</i> spp.), sedges (<i>Carex</i></p>	<p>A great deal of this regions biodiversity is associated with the coastal plains and forests. The Louisiana SWAP lists 240 state animal species of conservation need. Meadow jumping mice (<i>Zapus hudsonius</i>) and Henslow's sparrows (<i>Ammodramus henslowii</i>) can be seen in these habitats, along with bobcat, eastern cottontail rabbit, American alligator (<i>Alligator mississippiensis</i>) and the occasional black bear. Along with wild turkey and bobwhite quail, migratory waterfowl and neotropical songbirds winter in this area, making it a vital center for avian biodiversity in the contiguous 48 states (Oberbillig n.d.).</p>

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Resource Region	General Description	Vegetation Species	Animal Species
		spp.), and pickleweed ( <i>Salicornia</i> spp.) (NRCS 2006). Due to the high water table and predisposition to flooding, less than 10 percent of this region is farmed. Table 3.2-1 provides vegetation land cover types by this region.	
<b>Florida Subtropical Fruit, Truck Crop, and Range Region (Region U)</b>	This region is entirely in Florida and is characterized by low, flat coastal plains; swamps and marshland comprise more than half of this region. Elevation ranges from sea level to 330 feet AMSL. The average annual precipitation ranges from 44 to 59 inches. Approximately 90 percent of the region is privately owned.	Evergreen tree species comprise the majority of vegetation (29 percent); oaks and pines are the predominant forest species; oaks found throughout most of the region include turkey oak, bluejack oak, and live oak ( <i>Quercus virginiana</i> ); prevalent pines are longleaf pine and slash pine ( <i>Pinus elliotii</i> ) (NRCS 2006). Grasses and forbs compose 27 percent of the vegetation with typical understory species represented by grasses such as bluestem, panicum, and wiregrass ( <i>Aristida</i> spp.), and woody species such as cabbage palm ( <i>Sabal palmetto</i> ) and saw palmetto ( <i>Serenoa repens</i> ) (NRCS 2006). The southern tip of the region supports freshwater marsh and swamp vegetation, dominated by sawgrass ( <i>Cladium</i> spp.), pickleweed, willow, buttonbush ( <i>Cephalanthus</i> spp.), and maidencane ( <i>Amphicarpum</i> spp.) (NRCS 2006). Mangrove trees ( <i>Rhizophora</i> spp.) grow in saltwater swamps along the	Located entirely in the state of Florida, the wildlife associated with this region are dominated by white-tailed deer. Over half of the region consists of swamps and marsh which are filled with wading birds like the American white ibis ( <i>Eudocimus albus</i> ) and great blue heron ( <i>Ardea herodias</i> ) (Oberbillig n.d.). The playful antics of river otter can be observed here. This is one of the richest areas for reptiles in eastern North America and common inhabitants include the spotted turtle ( <i>Clemmys guttata</i> ) and water moccasin ( <i>Agkistrodon piscivorus</i> ). The Florida SWAP lists 974 state animal species of conservation need.

**Land Resource Regions of the United States**

Resource Region	General Description	Vegetation Species	Animal Species
		<p>eastern, southern, and southwestern coasts (NRCS 2006).</p> <p>Marketable commodities and important sources of income are citrus fruits, truck crops and some sugarcane; about 27 percent of the region is orchard/vineyard (9 percent) and row cropland (18 percent), most of which is used for citrus farming (NRCS 2006). Management of the water table is a primary concern during the summer; however irrigation for many crops may also be required during the fall and winter seasons, which are generally dry (NRCS 2006). Table 3.2-1 provides vegetation land cover types by this region.</p>	