

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Biomass Crop Assistance Program
1-BCAP**

Amendment 2

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 3 A has been amended to add an additional related handbook reference.

Subparagraph 3 B has been amended to clarify, without change of substance, that BCAP regulations and National Office directives prevail whenever there appears to be conflict between BCAP regulations and National Office directives and State Office directives.

Paragraph 5 has been amended to:

- incorporate regulatory references for BCAP administration.
- change the term “meritorious relief” to “equitable relief” to be consistent with regulations.

Paragraph 70 has been amended to added regulatory language to clarify QBCF.

Subparagraph 120 B has been amended to clarify that the eligible material list **must** be consistent with regulations in 7 CFR Part 1450.

Paragraph 123 has been amended to add regulatory text and for clarification.

Paragraphs 125 and 126 have been add to provide guidance for BCAP-10 and BCAP-11.

Part 4 has been amended to add separate sections about specific policy matters for project areas.

Exhibit 2 has been amended to add definitions for TSP and substantial beneficial interest.

Exhibit 15 has been withdrawn because the content has been incorporated into BCAP-10 and BCAP-11.

Exhibit 30 has been added to provide example notification letters for BCAP administration.

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Page Control Chart		
TC	Text	Exhibit
1, 2	1-3 through 1-6	1, pages 1, 2
3	1-7 (add)	2, pages 7, 8
4 (add)	3-1, 3-2	page 9
	3-2.5, 3-2.6 (add)	4, pages 1, 2
	3-61, 3-62	15, page 1 (remove)
	3-65 through 3-250	20, pages 5, 6
	4-1, 4-2	30, pages 1, 2 (add)
	4-7, 4-8	page 3 (add)
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	4-16 (add)	
	4-17 through 4-326 (add)	

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3 Related Handbooks, Manuals, and Forms

A Related Handbooks and Manuals

Related handbooks include the following.

Handbook or Manual	Purpose
1-APP	Appeals.
1-AS	Supplementing BCAP matching payments provisions.
3-AS	Clearing forms.
25-AS	Records management.
1-CM	Common management provisions.
2-CM	Common farm and program provisions.
3-CM	Farm, tract, and crop data.
1-COR	Quality control.
--2-CP	Acreage and compliance determinations.--
4-CP	Payment reductions and violations.
6-CP	HELC and WC provisions.
7-CP	Finality rule and misaction/misinformation.
3-FI	Handling receipts and deposits.
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62-FI	Nonresident alien income tax.
63-FI	Assignments and joint payments.
2-INFO	Providing information to the public.
3-INFO	Privacy Act.
4-PL	Direct attribution for the 2-year matching payment duration.
22-PM	County Office personnel management procedures about conflict of interest with official duties.
NRCS National Food Security Act Manual	HEL and wetland determinations and delineations.

3 Related Handbooks, Manuals, and Forms (Continued)

B State Supplements to These Provisions

State Office handbook supplement instructions shall **not** be less or more restrictive than the provisions of this handbook. However, State-specific amendments may be made that are consistent with BCAP provisions. For permanent directives, the following guidelines must be followed:

- issue a permanent State Office directive only as a supplement to this handbook

Note: Do **not** create a separate State handbook.

- do **not** rewrite or elaborate on unclear or incomplete national instructions
- do **not** modify national wording when adding supplemental information
- State Offices may supplement these handbook instructions according to 1-AS.

Notes: Periodically, the National Office may select State Office amendments for review.

--If any State Office directive appears to be in conflict with either BCAP regulations or National Office directives, the regulations and National Office directives, as applicable, apply and shall be used.--

4 Access to Farms, Farm Records, and QBCF Records

A Access by USDA Representatives

Authorized USDA representatives * * *, by written agreement, have access to the following:

- farms and farm records to:
 - make eligibility determinations
 - verify practice performance measures
 - determine program benefit amounts
- QBCF records, as provided in the BCF Agreement, to ensure BCF's, EMO's, and BCAP participants are in compliance with program regulations and this handbook.

B Disclosure of Information

See 1-INFO, 2-INFO, and 3-INFO about public information. Information subject to the Privacy Act and related laws must **not** be disclosed for either QBCF's or EMO's.

*--5 Program Administration

A Administration and Role of DAFP

[7 CFR 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. In the field, the regulations in this part will be implemented by the Farm Service Agency (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 FSA Deputy Administrator for Farm Program (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 to a State or county committee will preclude the Executive Vice President, CCC, or a designee, 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.

B Waiver by DAFP

Unless prohibited by law, DAFP may elect to exercise discretionary relief authority or programmatic relief to waive any provision.

Exception: The discretionary relief or waiver provision is not:

- a substitute for appeal provisions in 1-APP for adverse determinations
- an entitlement by participants; participants are not “entitled to relief or waivers or even the consideration of such”.

Note: A COC request and recommendation for relief or a waiver must be submitted through STC. The written request submitted to STC and DAFP for relief or waiver must--* describe the basis and justification for the request, including all written documentation in the case file.

*--5 **Program Administration (Continued)**

C Request for Equitable Relief

STC may recommend relief according to 7-CP, to an applicant for matching payments based on a producer's request, documented justification, and COC recommendation.

COC may submit to STC requests for relief from complying with BCAP-24 terms and conditions with required documentation.

STC shall determine whether equitable relief is supported or not supported on a--* case-by-case basis.

All matching payment request cases for which relief is supported by STC must be submitted to the BCAP Program Manager, CEPD, for approval by DAFP and shall contain the following:

- copy of requestor's written request for relief
- copy of COC and/or STC minutes thoroughly documenting request and justification
- copy of all applicable forms and documents in the case file, including but not limited to BCAP-24, copy of aerial photocopies, conservation plans, FSP, deeds, etc.
- all documentation used by COC and STC during review
- narrative of the case in chronological order.

Notes: Incomplete case files will delay response.

*--Requests for equitable relief do not apply to qualification requests by BCF's.

This applies to relief requests under BCAP NOFA.--*

6 Handling Program Infractions

A County Office Action

If a person or legal entity * * * violated a program payment provision, document all pertinent facts about the nature and extent of the violation. If the case:

- involves possible violations of criminal or civil statutes, handle promptly according to 4-CP
- is a violation of a program provision and does not involve a false claim or fraud, COC *--will make a detailed finding of fact and record its determination.--*

Notes: Include any amount to be recovered in the finding.

If warranted, COC may submit the case with a recommendation for STC action.

B Producer Notification

--COC or STC will promptly notify the producer if it finds that program provisions have-- been violated. Include a statement of:

- COC's determination and the facts upon which it is based
- the amount of overpayment to be refunded with a demand for the refund.

*--**Note:** Advise the producer of the right to seek review according to 1-APP.--*

7-19 (Reserved)

Part 3 Matching Payments**Section 1 BCF Qualification*****--70 Qualified BCF's****A Overview**

[7 CFR 1450.101] (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 by the seller; 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 BCAP for not less than 3 years after the date that eligible material was delivered to the qualified biomass conversion facility;**
 - (iii) Clearly indicate the actual tonnage delivered on the scale ticket or equivalent to be provided to the eligible material owner;**
 - (iv) Calculate a total dry ton weight equivalent of the actual tonnage delivered and provide that measurement to the eligible material owner;**
 - (v) 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;**
 - (vi) Pay fair market value for eligible material regardless of whether the seller has applied for or receives a matching payment authorized by this subpart.**
- (b) For a qualified biomass conversion facility, CCC can:**
 - (1) Periodically inform the public that payments may be available for deliveries of eligible material to such qualified biomass conversion facility;**
 - (2) 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; and**
 - (3) Suspend, terminate, or take other actions as appropriate when CCC determines a qualified biomass conversion facility fails to comply with the agreement.--***

--70 Qualified BCF's (Continued)--**A Overview (Continued)**

For EMO to qualify for a matching payment for the delivery and sale of eligible material to BCF, the receiving BCF must first become qualified under BCAP. To become qualified, the eligible BCF must enter into an agreement with CCC and submit related forms and documents according to subparagraphs 71 A and C, to the FSA State Office in the State where the facility is primarily physically located.

The qualifications provided to facilities under the earlier BCAP NOFA are **not** applicable for the new matching payment component of BCAP.

All facilities seeking to support matching payments for the biomass suppliers **must** obtain new qualifications according to this handbook.

B QBCF Limitation

By becoming QBCF, the facility does not qualify itself for any matching payment or other direct program benefits. Qualification of BCF allows EMO who delivers eligible material to QBCF to potentially qualify for matching payments.

Note: There are some circumstances where QBCF can also be EMO and receive matching payments according to subparagraph 71 D.

71 Qualifying BCF's

A Eligibility for Qualification

To be eligible for qualification, BCF must:

- convert or propose to convert the eligible material for which matching payments are issued to heat, power, biobased products, or advanced biofuels

Notes: If converting eligible material biomass into any biobased products, those products must meet the definition of biobased product, according to this handbook, and all of the following standards as determined by DAFP:

- meet the minimum biobased content threshold for appropriate item classification
- **not** have significant national market penetration as of 1972.

--Biobased products are not limited to but may be listed in the Biobased Products Catalog available at www.biopreferred.gov. Products not listed need to be submitted to the BCAP Program Manager for consideration.--

- maintain and meet all necessary regulatory and permitting requirements by applicable Federal, State, tribal, and local authorities and submit copies of such permits with the Application/Agreement

Note: For lengthy permits, the State Office may authorize submission of only key permit pages, provided that the key page submission includes permit title, number, expiration date, name of permit holder, agency issuing permit, and agency authorized signature.

- be physically and entirely located in the U.S.

Note: Delivery, as determined by CCC, to a facility's campus, off-site delivery location, or affiliated facility must be located within the U.S.

- agree, in writing, when purchasing eligible material to always pay fair market price according to subparagraph D

Section 2 Eligible Material

120 Overview and Eligible Material List

A Overview

Matching payments may be available for eligible materials. Not all renewable biomass is eligible material for BCAP and not all eligible material will qualify for matching payments.

B Eligible Material List

To be determined to qualify for a matching payment, COC must determine that the biomass for which a matching payment is being sought meets **all** of the following requirements:

- meets the definition of eligible material, according to Exhibit 2
- is consistent with the guidance provided in the eligible material list on FSA's BCAP web site
- *--meets the requirements of 7 CFR Part 1450 and this paragraph.--*

Note: The eligible material list is subject to periodic updates and may be found at www.fsa.usda.gov/BCAP.

121 Eligible Material Provisions

A Qualifying Material Collection and Harvesting Requirements

To be determined to qualify for a matching payment by COC, the eligible material **must** also be collected or harvested:

- by EMO directly from any of the following:
 - FS land
 - BLM land
 - non-Federal land
 - land belonging to an Indian or Indian tribe that is held in trust by the U.S. or subject to a restriction against alienation imposed by the U.S.

Notes: Non-Federal land includes land owned by State and local Governmental entities in addition to privately owned land.

Material from other Federal land is **not** eligible.

121 Eligible Material Provisions (Continued)**A Qualifying Material Collection and Harvesting Requirements (Continued)**

- by EMO, consistent with a conservation, forest stewardship, or equivalent plan
- in a manner that does **not** introduce or spread invasive species

Note: Executive Order 13112 provides, among other things, 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 U.S. or elsewhere.

- **on or after** the date of the publication of the BCAP final rule, October 27, 2010.

B Additional Eligible Material Qualifications for Woody Material

To be determined to qualify for a matching payment by COC, woody material that is collected or harvested from land other than project area contract acreage is subject to additional requirements.

Note: Matching payments are not authorized for woody biomass at this time; however, directives are forthcoming.

C Other Eligible Material Qualifications

To qualify for a matching payment by COC, all material **must** be handled in a manner so that it can be directly associated with CLU from which it was obtained. Additionally, all material must **not**:

- be material collected or harvested **outside** contract acreage that must be separated from material used for a higher-value product after delivery to BCF
- change ownership before delivery to QBCF.

123 EMO's

A EMO Requirements

*--[7 CFR 1450.102] Eligible material owner.

- (a) In order to be eligible for a payment under this subpart, a person or legal entity must:
- (1) Be a producer of an eligible crop that is produced on contract acreage authorized by subpart C of this part; or
 - (2) Have the right to collect or harvest eligible material and such person may only receive payment if the risk of loss for the material transferred to that person occurred prior to the time the payment is made that will be used to determine the matching payment that is requested under this subpart; and
 - (3) Certify that the eligible material for which a payment may be issued according to §1450.106 has been harvested according to a conservation plan, forest stewardship plan, or equivalent plan, and, if not crop residues, are byproducts of preventative treatments that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health.
- (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.

*--Under the matching payments provision of BCAP, any owner of eligible material, inside or outside a project area, can be an EMO. EMO's must have the legal right to harvest or collect material from land and be either of the following:

- person or legal entity who assumes the risk of loss for the eligible material
- producers of an eligible crop on land enrolled under BCAP-24.

When land ownership has **not** been determined at the time BCAP-10 is submitted to the--* County Office, use 3-CM to determine land ownership before approving BCAP-10.

A nonlandowner must provide, to the County Office, a copy of a written permit, contract, or agreement from the landowner that authorizes the transfer of ownership of the eligible material for each CLU/field where eligible material is to be harvested or collected.

--A person or legal entity submitting BCAP-10 or BCAP-11 is affirming that the person or legal entity is an eligible EMO. FSA may, at any time before or after processing a payment, request the person or legal entity to provide documentation substantiating the certifications on BCAP-10 and BCAP-11.--

EMO's **must**:

- certify that the eligible material has been harvested consistent with a conservation, forest stewardship, or equivalent plan
- retain records for each load of eligible material documenting the location of the FSA CLU's/fields from which the biomass was harvested and collected

123 EMO's (Continued)

A EMO Requirements (Continued)

- harvest or collect eligible material directly from land
- be in compliance with HEL and WC provisions of 6-CP
- apply for a matching payment at the County Office on BCAP-10

Note: Multiple payment requests using BCAP-11 may be submitted for a single approved BCAP-10 when incremental payments are requested for incremental deliveries of loads associated with 1 approval.

- submit accurate and complete information when submitting BCAP-11 requesting payment
- be determined to be within the 2-year maximum payment duration limit
- **not** be a Federal Agency, Federal Department, or any other Federal entity.

Exception: A payment may be issued to BIA on behalf of tribes according to 1-CM.

B EMO Eligibility for Matching Payments

To be eligible for matching payments as EMO, a person or legal entity:

- can be a State, tribal, county, or other local governmental entity, or foreign owner, provided all other eligibility criteria are met
- can be QBCF, provided all other eligibility criteria are met
- can be a person or entity other than a land owner, provided they acquire ownership of the eligible material **before** it is harvested and collected in the field
- can be EMO and use a third party to conduct the actual collection or harvesting and/or handling and delivery of the eligible material, provided those parties do **not** own the material
- **cannot** be a depot operator, aggregator, consolidator or similar person or entity if they were not responsible for the collection or harvest of materials delivered to QBCF
- **must**, in the case where QBCF indicated on their BCAP-10 changes to ownership, request a new BCAP-10 reflecting a new binding contract with the new owner.

Note: Neither AGI nor controlled substance provisions apply to EMO's.

124 2-Year Payment Duration Limit**A General Rule**

For any EMO, matching payments are only available for a 2-year (730 calendar days) duration beginning the date that CCC issues the first matching payment to that EMO. EMO's may deliver eligible material for the entire 2-year period, provided that BCAP-10 has been approved. The 2-year eligibility period begins the day the first payment is issued to EMO. BCAP-10's for eligible material delivered during the 2-year period **must** be approved by FSA **before** the 2-year period ends.

Notes: Deny any requests for matching payments from any EMO for which the 2-year period has been exceeded. Provide appeal rights according to 1-APP.

Reorganizing an entity to evade the 2-year duration may be considered a scheme and device.

The date the first payment is issued is the date the County Office submits the payment to NPS.

B CHST Payment Provisions

For EMO who received a CHST payment authorized under NOFA, the 2-year period must be determined by calculating the number of calendar days between the date that CCC issued the first payment and the date last payment was issued under NOFA. Subtract that amount from 730 calendar days. The result is the number of days that matching payments may be authorized for that EMO according to this notice. If a single payment was issued under NOFA, subtract a single day from the 2-year period.

Note: The 2-year duration must be manually controlled by County Offices.

*--125 Completing BCAP-10's

A Overview

EMO will use BCAP-10 to enter application for payment, approval, and payment under BCAP's CHST matching payment component. BCAP-10 **must** be:

- completed and approved **before** EMO makes a delivery of eligible material, if the owner wants to obtain a matching payment for the delivery
- submitted with required supplement documentation at the appropriate FSA County Office.

Note: The appropriate administrative FSA County Office where EMO will submit the BCAP-10 and documentation is determined by the following:

- if EMO already has existing farm records at a particular FSA County Office, that FSA County Office will be the office where EMO submits BCAP-10
- if EMO does **not** have existing farm records in a FSA County Office, the county where field or CLU is located and on which the collection or harvest takes place will determine the FSA County Office where EMO will submit BCAP-10
- if the collection or harvest occurs on national forest or BLM lands, it will be the FSA County Office geographically nearest to the Federal lands unless otherwise previously designated in a specific county.

EMO **must** submit the following additional items to support BCAP-10:

- conservation plan, FSP, or approved equivalent plan

Note: A new or amended plan is necessary and must be obtained **before** a collection or harvest is executed for the material to be eligible for matching payments.

- proof of material ownership
- BCF and EMO agreements.

Note: A fully executed binding contract or LOI between QBCF and EMO showing contract time period or dates of delivery, expected eligible material delivery in dry tons and green tons, name of EMO, name of QBCF, and price per dry ton or dollar range per dry ton to be paid on delivery.--*

*--125 Completing BCAP-10's (Continued)

B Completing BCAP-10

The following provides instructions for manually completing BCAP-10. BCAP-10 will be automatically populated by the BCAP matching payment software.

Item	Description
1A	Control number assigned by the automated system.
1B	State and county FSA code of the administrative county.
2	Expiration date for BCAP-10. The expiration date will be the last date on which EMO may deliver eligible material to BCF associated with this BCAP-10 submission.
3A-3C	EMO name and mailing address. Note: Continuation sheet is available to record all EMO's.
3D	E-mail address where EMO can receive e-mail information.
3E	Phone number where EMO can receive phone calls.
4A-4C	FSA County Office name and address where BCAP-10 is being filed.
4D	E-mail address for the FSA County Office. Note: Enter an employee e-mail address if office address is unavailable or nonexistent. Leave blank if no e-mail address is available.
4E	FSA County Office phone number.
5	Facility ID# found on the FSA BCAP web page at www.fsa.usda.gov/bcap for the facility that is receiving the eligible material.
6	Name of QBCF on the FSA BCAP web page at www.fsa.usda.gov/bcap that is taking delivery of the biomass.
7	State/county code assigned by FSA for the physical location of BCF that EMO is supplying. Notes: State/U.S. Territory codes are 2 digits and county codes are 3 digits.
8	Date that delivery of biomass included in this BCAP-10 will begin.
9	Enter the anticipated date the last delivery of biomass included in this BCAP-10 will occur.

--*

*--125 Completing BCAP-10's (Continued)

B Completing BCAP-10 (Continued)

Item	Description
10A	<p>Check all types of eligible material that will be or are expected to be delivered to QBCF.</p> <p>Notes: This description should correspond with the eligible material description found on EMO's binding contract or LOI with QBCF.</p> <p>A continuation sheet is provided for multiple entries because of any variation in type of material.</p>
10B	<p>Amount in dry tons, rounded to the nearest hundredth of a ton, recorded in the binding contract or LOI that QBCF and EMO agree to as the amount expected to be delivered for the term of the contract or LOI.</p>
10C	<p>Expected price per dry ton, rounded to the nearest hundredth of a ton, that is recorded in the binding contract or LOI that QBCF and EMO agree to for the terms of the contract of LOI.</p>
10 D	<p>Calculated dollar amount computed by the automated system.</p> <p>Notes: The automated system will multiply item 10B x item 10C to arrive at the dollar amount entered. If the automated system is unavailable, this item is still to be completed by the FSA County Office manually according to the calculation of item 10B x item 10C.</p> <p>The continuation sheet allows for additional entries.</p>
10E	<p>State code where the eligible biomass originated.</p>
10F	<p>County code where the eligible biomass originated.</p>
10G	<p>FSA farm number where the eligible biomass will be collected or harvested.</p>
10H	<p>FSA tract number where the eligible biomass will be collected or harvested.</p>
10I	<p>Field (CLU) number where the eligible biomass will be collected or harvested.</p>
10J	<p>Conservation plan, FSP, or equivalent plan under which the eligible material is harvested or collected.</p> <p>Note: Select plan type.</p>
10K	<p>Date plan specified in item 10J was completed and signed by EMO.</p>
10L	<p>Enter date biomass was or is to be harvested or collected.</p>

--*

*--125 Completing BCAP-10's (Continued)

B Completing BCAP-10 (Continued)

Item	Description
11	EMO's name.
12	Signature of the participant.
13	Signing representative's title that is assigned to the individual by the entity or best reflects the signing representative's role with the entity.
14	Date on which the representative signed BCAP-10.
15	<p>Total dollar amount is the summation the Maximum Total Matching Payments recorded in item 10D blocks.</p> <p>Note: Item 10D blocks from the continuation sheet must also be included in this summation. All of the entries in item 10D blocks must be added together to arrive at the Planned Total Dollar Amount entry. The automated systems will perform the addition.</p>
16	Total dollar amount of approved matching payments.
17	Signature representing the approval of COC or COC representative with the delegated authority to make an approval.
18	Date of the signature of the approving official.

--*

*--125 Completing BCAP-10's (Continued)

C Example of BCAP-10

The following is an example of BCAP-10.

<p>BCAP-10 (01-05-11)</p> <p>U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation</p> <p align="center">BIOMASS CROP ASSISTANCE PROGRAM (BCAP)– MATCHING PAYMENT PRE-DELIVERY APPLICATION (This is not an application for Payment but preliminary application covering general qualifications prior to delivery)</p>		<p align="right">Form Approved – OMB No. 0560-0082 (See Page 2 for Privacy Act and Public Burden Statements)</p> <p align="center">For FSA Office Use Only</p> <p>1A. Control Number 20110001</p> <p>1B. State and County Code</p> <p>2. Agreement Expiration Date (MM-DD-YYYY)</p>	
<p>PART A - OWNER INFORMATION</p> <p>3A. Material Owner Name Arch Staunton</p> <p>3B. Material Owner Street Address 1 Rural Road</p> <p>3C. City, State, ZIP Sometown, State 00000</p> <p>3D. Email Arch.staunton@notarealemailaddress.com</p> <p>3E. Telephone Number (Include Area Code) (555) 555-1212</p>		<p>PART B - COUNTY OFFICE INFORMATION</p> <p>4A. County Office Name Anywhere County FSA Office</p> <p>4B. County Office Street Address 1 Main Street USA</p> <p>4C. City, State, ZIP Sometown, State 00000</p> <p>4D. Email</p> <p>4E. Telephone Number (Include Area Code) (555) 555-1212</p>	
<p align="center">PART C - QUALIFIED BIOMASS CONVERSION FACILITY (QBCF) TO WHICH PLANNED DELIVERIES WILL BE MADE</p>			
<p>5. Qualified Biomass Conversion Facility ID No. 00000000</p>		<p>6. Name of Qualified Biomass Conversion Facility Sample Project, LLC</p>	
<p>7. State and County Code 00 000</p>	<p>8. Delivery to Commence (MM-DD-YYYY) 02-01-2011</p>	<p>9. Delivery to End (MM-DD-YYYY) 09-30-2011</p>	
<p align="center">PART D - MATERIAL TO BE DELIVERED (If more entries are needed, see Page 4)</p>			
<p>10A. Type & Description of Material ACCS</p>	<p>10B. Proposed Quantity of Material to be Delivered to QBCF (Dry Tons) 54.00</p>	<p>10C. Proposed Price (\$/Dry Ton) \$ 40.94</p>	<p>10D. Maximum Total Matching Payment \$ 2210.76</p>
<p>10E. State FSA Code 00</p>	<p>10F. County FSA Code 000</p>	<p>10G. Farm Number (For FSA Office Use Only) 0000</p>	<p>10H. Tract Number (For FSA Office Use Only) 0000</p>
<p>10I. CLU Number (For FSA Office Use Only) 1</p>	<p>10J. Plan Type C</p>	<p>10K. Plan Completion Date (MM-DD-YYYY) 02-01-2011</p>	<p>10L. Harvest Date (MM-DD-YYYY) 10-15-2010</p>
<p>PART E - PARTICIPANT'S CERTIFICATION</p> <p><i>This form is an application for payment and approval by the agency and may be withdrawn at any time for any reason. Payments will be made only upon the meeting of all conditions and the filing of the proper form for the actual deliveries. I state that I am aware that I must understand the following certifications including obtaining additional information as needed from the county FSA office and other sources, and certify that: 1) the above information is true and correct, 2) I am a producer of an eligible crop or have the legal right to collect or harvest eligible material, 3) the above eligible material meets the definition in 7 CFR § 1450.2 and is listed as an eligible material, 4) the eligible material will be collected or harvested directly from National Forest System land, Bureau of Land Management land, 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, 5) the eligible material will be collected or harvested in accordance with a conservation, forest stewardship, or equivalent plan, 6) the eligible material collection or harvest will not be contrary to the purposes of Executive Order 13112 for Invasive Species by aiding or abetting in the introduction or spread of invasive plant or animal species(s), 7) woody eligible material will be collected or harvested only for an approved purpose, 8) the eligible material is not eligible to receive a payment from the qualified biomass conversion facility before this Agreement is approved, 9) the eligible material if not grown on contract acreage (acreage which has been approved for inclusion in a special BCAP project area), does not have a market to produce a higher-value product, 10) the eligible material must have been collected by you or harvested by you, 11) the eligible material, if not grown on contract acreage, was collected or harvested separately from the collection or delivery of some other product to which it may have been affixed (delivery of a tree with bark is not considered by this provision to be a delivery of bark) and will not be separated from any materials used to produce higher-value products upon delivery to the qualified biomass conversion facility.</i></p> <p><i>This application, if approved will allow me to file claims for payment for subsequent deliveries of eligible material. Such deliveries and actual application for payment must begin within a year of this application being accepted. I am aware that the total delivery period for which payment may be received cannot be greater than the continuous amount of time which is equal to two years minus the amount of time for which deliveries generated payments under the BCAP Notice of Funds Availability. I am aware that any payments are subject to availability of funds on all payment forms and are governed.</i></p>			

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*--125 Completing BCAP-10's (Continued)

C Example of BCAP-10 (Continued)

BCAP-10 (01-05-11)			Page 2 of 4
PART E - PARTICIPANT'S CERTIFICATION (CONTINUATION)			
<p><i>are governed by the appropriate regulations. This is an application only and does not guarantee payment under the program and is not a contractual undertaking of the federal government. I am aware that all information provided and activities conducted are subject to compliance review. Liability under the program for false or incorrect statement may be in addition to any liability which may be incurred under various criminal and civil fraud statutes, including, but not limited to, 18 U.S.C. 1001 and 15 U.S.C. 714m.</i></p>			
11. Participant's Name	12. Participant's Signature (By)	13. Title/Relationship of the Individual if Signing in a Representative Capacity	14. Date (MM-DD-YYYY)
Arch Staunton		Self	02-01-2011
15. Planned Total Amount: \$		16. Approved Planned Total Amount: \$	
PART F - APPROVAL ACTION (The Approving Official approved the matching payment application.)			
17. Approving Official Signature			18. Date (MM-DD-YYYY)
			02-01-2011
<p>NOTE: <i>The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1450, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used by CCC to approve eligible material owners for participation in the matching payment provision of the Biomass Crop Assistance Program. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability on the part of CCC to approve eligible material owners for participation in the matching payment provision of the Biomass Crop Assistance Program.</i></p> <p><i>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0082. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</i></p>			
<p><i>The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.</i></p>			

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*--125 Completing BCAP-10's (Continued)

C Example of BCAP-10 (Continued)

BCAP-10 (01-05-11)		Page 3 of 4
CONTINUATION OF ITEM 3		
PART A - OWNER INFORMATION		
3A. Material Owner Name	3A. Material Owner Name	
3B. Material Owner Street Address	3B. Material Owner Street Address	
3C. City, State, ZIP	3C. City, State, ZIP	
3D. Email	3D. Email	
3E. Telephone Number <i>(Include Area Code)</i>	3E. Telephone Number <i>(Include Area Code)</i>	
3A. Material Owner Name	3A. Material Owner Name	
3B. Material Owner Street Address	3B. Material Owner Street Address	
3C. City, State, ZIP	3C. City, State, ZIP	
3D. Email	3D. Email	
3E. Telephone Number <i>(Include Area Code)</i>	3E. Telephone Number <i>(Include Area Code)</i>	
3A. Material Owner Name	3A. Material Owner Name	
3B. Material Owner Street Address	3B. Material Owner Street Address	
3C. City, State, ZIP	3C. City, State, ZIP	
3D. Email	3D. Email	
3E. Telephone Number <i>(Include Area Code)</i>	3E. Telephone Number <i>(Include Area Code)</i>	
3A. Material Owner Name	3A. Material Owner Name	
3B. Material Owner Street Address	3B. Material Owner Street Address	
3C. City, State, ZIP	3C. City, State, ZIP	
3D. Email	3D. Email	
3E. Telephone Number <i>(Include Area Code)</i>	3E. Telephone Number <i>(Include Area Code)</i>	

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*--125 Completing BCAP-10's (Continued)

C Example of BCAP-10 (Continued)

BCAP-10 (01-05-11)		CONTINUATION OF ITEM 10	
PART D - PLANNED DELIVERY OF MATERIAL			
10A. Type of Material ACCS	10B. Proposed Quantity of Material to be Delivered to QBCF (Dry Tons) 52.00	10C. Proposed Price (\$/Dry Ton) \$ 40.94	10D. Maximum Total Matching Payment \$ 2128.88
10E. State FSA Code 00	10F. County FSA Code 000	10G. Farm Number (For FSA Office Use Only) 0000	10H. Tract Number (For FSA Office Use Only) 0000
10I. CLU Number (For FSA Office Use Only) 1	10J. Plan Type C	10K. Plan Completion Date (MM-DD-YYYY) 02-01-2011	10L. Harvest Date (MM-DD-YYYY) 10-15-2010
10A. Type of Material ACCS	10B. Proposed Quantity of Material to be Delivered to QBCF (Dry Tons) 54.00	10C. Proposed Price (\$/Dry Ton) \$ 40.94	10D. Maximum Total Matching Payment \$ 2210.76
10E. State FSA Code 00	10F. County FSA Code 000	10G. Farm Number (For FSA Office Use Only) 0000	10H. Tract Number (For FSA Office Use Only) 0000
10I. CLU Number (For FSA Office Use Only) 1	10J. Plan Type C	10K. Plan Completion Date (MM-DD-YYYY) 02-01-2011	10L. Harvest Date (MM-DD-YYYY) 10-15-2010
10A. Type of Material	10B. Proposed Quantity of Material to be Delivered to QBCF (Dry Tons)	10C. Proposed Price (\$/Dry Ton) \$	10D. Maximum Total Matching Payment \$
10E. State FSA Code	10F. County FSA Code	10G. Farm Number (For FSA Office Use Only)	10H. Tract Number (For FSA Office Use Only)
10I. CLU Number (For FSA Office Use Only)	10J. Plan Type	10K. Plan Completion Date (MM-DD-YYYY)	10L. Harvest Date (MM-DD-YYYY)
10A. Type of Material	10B. Proposed Quantity of Material to be Delivered to QBCF (Dry Tons)	10C. Proposed Price (\$/Dry Ton) \$	10D. Maximum Total Matching Payment \$
10E. State FSA Code	10F. County FSA Code	10G. Farm Number (For FSA Office Use Only)	10H. Tract Number (For FSA Office Use Only)
10I. CLU Number (For FSA Office Use Only)	10J. Plan Type	10K. Plan Completion Date (MM-DD-YYYY)	10L. Harvest Date (MM-DD-YYYY)
10A. Type of Material	10B. Proposed Quantity of Material to be Delivered to QBCF (Dry Tons)	10C. Proposed Price (\$/Dry Ton) \$	10D. Maximum Total Matching Payment \$
10E. State FSA Code	10F. County FSA Code	10G. Farm Number (For FSA Office Use Only)	10H. Tract Number (For FSA Office Use Only)
10I. CLU Number (For FSA Office Use Only)	10J. Plan Type	10K. Plan Completion Date (MM-DD-YYYY)	10L. Harvest Date (MM-DD-YYYY)

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***--126 Completing BCAP-11's**

A Overview

EMO's must use BCAP-11 to request matching payment after approval of BCAP-10 and deliveries of eligible materials have been made. BCAP-11 will be automatically populated by the BCAP matching payment software. Matching payments are EMO's participating in BCAP's CHST matching payment component. BCAP-10 **must** be:

- completed and approved **before** EMO makes a delivery of eligible material
- submitted with appropriate proof of delivery and scale ticket documentation
- submission with the required supplement documentation at the FSA County Office where the associated BCAP-10 was filed.

B Completing BCAP-11

Item	Description
1A	Control number assigned by the automated system.
1B	State and County code as assigned by FSA.
2	Expiration date of the associated BCAP-10. The expiration date should correspond with BCAP-10, item 2.
3	Identification number on the settlement sheet from QBCF issued to EMO at the time of payment for the delivery.
4	Date on the settlement sheet for an individual delivery.
5	Single type entry that corresponds with: <ul style="list-style-type: none"> • a material type on the binding contract or LOI that EMO has with BCF • the a material type selected on BCAP-10, item 10A. Component codes used for BCAP-10, item 10A will be used for this entry.

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*--126 Completing BCAP-11's (Continued)

B Completing BCAP-11 (Continued)

Item	Description
6	Amount in dry tons for the material type delivered and recorded on the settlement sheet.
7	Amount should be recorded on the settlement sheet and should correspond with the dollar per dry ton entered on the BCAP-10, item 10C.
8	System will calculate the total matching payment amount. The amount will reflect the multiplication of item 6 times item 7.
9	Record the location where the eligible material was collected or harvested: <ul style="list-style-type: none"> • “ST”, State code as assigned by FSA • “CNTY”, county code as assigned by FSA • “Farm #”, farm number as assigned by administrative FSA County Office • “Tract#”, tract number as assigned by administrative FSA County Office • “CLU or Common Land Unit or Field”, CLU or field number as assigned by administrative FSA County Office.
10	EMO’s name.
11	Percentage of the payment to be dedicated to the participant named in item 10.
12	Signature of the participant.
13	Signing representative’s title that is assigned to the individual by the entity or best reflects the signing representative’s role with the entity.
14	Date on which the representative signed BCAP-11.
15	Check box “yes”, if the payment is approved or check box “no”, if payment is not approved.
16	Date that the administrative FSA County Office approves or disapproves the payment.
17	Signature representing the approval of COC.

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*--126 Completing BCAP-11's (Continued)

C Example of BCAP-11

BCAP-11 (01-05-11)			Page 2 of 4	
PART B - PARTICIPANT AGREEMENT				
<p><i>The undersigned eligible material owners (who may be referred to as "Participant") certifies that he/she has delivered the quantity of material set forth above to the Qualified Biomass Conversion Facility. The participant certifies further that he/she has received a payment in the amount that is specified and the receipts (from the Qualified Biomass Conversion Facility) that have been provided are the original and have not been altered in any way.</i></p> <p><i>The participant certifies that he/she, or "it" in the case of an entity, had the legal ownership for the eligible material that was delivered to Qualified Biomass Conversion Facility.</i></p> <p><i>The participant understands that he/she is only eligible to receive payments for deliveries for a consecutive period no greater than the amount of time which is equal to two years minus the amount of time for which deliveries generated payments under the BCAP Notice of Funds Availability. County offices of the FSA will assist in the determination of the period of payment availability.</i></p> <p><i>I certify that I have read the Participant Certification statement in the BCAP-10 form and have met all requirements in the applicable regulations to receive payment under the program.</i></p>				
10. Participant's Name <i>(Eligible Material Owner)</i>	11. Percent Share Matching Payment	12. Signature (By)	13. Title/Relationship of the Individual Signing in a Representative Capacity	14. Date <i>(MM-DD-YYYY)</i>
Arch Staunton	100%		Self	03-15-2011
	%			
	%			
	%			
	%			
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	%			
15. Matching Payment Approved: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		16. Approval Date (MM-DD-YYYY) <div style="text-align: right;">04-13-2011</div>		
17. Approving Official Signature				

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Section 3 (Reserved)

145-165 (Reserved)

Section 4 (Reserved)

166-186 (Reserved)

Section 5 (Reserved)

187-207 (Reserved)

Section 6 (Reserved)

208-228 (Reserved)

--Part 4 Project Area Management*Section 1 Establishment and Annual Rental Payments Under Project Areas--*****246 Project Areas****A Overview**

Project areas are a Federal, private biomass industry, and producer partnership to support development of an economically- and environmentally-sustainable biomass industry to produce heat, power, and biobased products or biofuels through the development of new biomass feedstock.

Approval of project areas will be based on the establishment and expansion of new or developing biomass feedstocks and conversion processes. Project area applications determined to have been developed to circumvent qualifications for matching payments outside project areas will not be approved.

On a voluntary basis, project proposals are submitted by project sponsors to propose the designation of a defined geographic area to become a project area.

Upon designation of a project area, certain producers within the project area are then eligible to enroll contract acreage to receive:

- up to 5 years of annual rental payment for herbaceous annual and perennial crop production
- up to 15 years of annual rental payment for woody perennial crop production
- up to 75 percent reimbursement for the establishment costs of woody and nonwoody perennial crops.

247 Submission Overview**A Proposals**

Project proposal submission begins when a project sponsor submits a project proposal to the State Office for review and recommendation to the BCAP Program Manager.

Project proposals are accepted on a continuous basis.

B Limitations

Because a project will be limited to a designated geographic area, only eligible land within a project area will be eligible to be enrolled under a BCAP contract for annual and/or establishment payments.

248 Project Sponsor**A Project Sponsor Qualifications**

A project must be proposed by a project sponsor, which **must** be either:

- a group of producers
- BCF.

Note: See Exhibit 2 for the definition of BCF.

249 Federal Incentives**A Assistance Available for Contract Acreage in Project Areas**

After a project has been approved, eligible participants in the program may be eligible to receive **any** of the following:

- technical assistance to establish and maintain desired biomass feedstock crops

Note: A conservation, forest stewardship, or equivalent plan would cover the acres enrolled in BCAP, including required management and harvest measures that provide for the removal of an eligible crop.

251 Project Proposal Review and Action (Continued)

C Roles and Responsibilities of State-Level BCAP Review for Environmental (Continued)

The State-level BCAP Review Team responsibilities are as follows.

- The State-level BCAP Review Team will review
 - the environmental screening worksheet
 - all submitted supporting information
 - pertinent local, State, or regional program/legal requirements that could have an impact on current or future activities resulting from the project area.
- *--The State-level BCAP Review Team will provide input based on the review, any of the following:
 - approval of the project area is consistent with the final BCAP PEIS and ROD (<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecrc&topic=nep-cd>) and that no further NEPA is required--*
 - the data included in the project proposal are inconclusive about potential impacts associated with the project area and that a site-specific PEA that would tier to the final BCAP PEIS should be prepared at the expense of the sponsor
 - the data included in the project proposal indicate potential environmental impacts beyond what was covered in the final BCAP PEIS and ROD, and that a site-specific PEA that would tier to the final BCAP PEIS should be prepared at the expense of the sponsor.

NRCS and FS, as a member of the State-level BCAP Review Team, responsibilities are as follows.

- Determine whether the energy crops based are compatible with local ecosystems to help minimize potential disturbances to native wildlife and vegetation by providing habitats *--comparable to those found in natural habitats and provide direct citations of source where applicable.--*
- Ensure that HEL and WC requirements are adhered to.
- Identify if threatened and endangered species or critical habitats are present and recommend if consultation under Section 7 of the Endangered Species Act is indicated.
- Determine whether tribal and/or historic properties and/or cultural resources are going to be impacted.

251 Project Proposal Review and Action (Continued)**C Roles and Responsibilities of State-Level BCAP Review for Environmental (Continued)**

As a member of the State-level BCAP Review Team, FSA State Environmental Coordinator responsibilities include **all** of the following:

- if the proposal is considered an “undertaking,” consistent with National Historic Preservation Act, consult with the State Historic Preservation Officer and/or the Tribal Historical Preservation Officer, if applicable
- if indicated, consult with FWS under Section 7 of the Endangered Species Act informally or formally as appropriate
- ensure adherence to Executive Order 11988 on floodplains, and consult with FEMA if indicated
- identify presence or proximity of wetlands to proposed action for compliance with Section 404 of the Clean Water Act, and consult with the U.S. Army Corps of Engineers as appropriate
- ensure that the requirements in 1-EQ are followed and documented accordingly during the NEPA process.

254 Project Eligible Land Overview (Continued)**E Land Enrolled in Other USDA Programs**

Land enrolled in other USDA programs may be eligible for BCAP provided the land would not earn benefits for the same purpose under other USDA programs and the practice *--measures do not conflict with BCAP. See paragraph 318.--*

255 Project Eligible Crops Overview**A Eligible Crop Provisions**

Both of the following provisions apply to eligible crops:

- eligible crops are crops of renewable biomass suitable for planting on agricultural or NIPF
- only those crops listed in an approved BCAP project are eligible crops for that project area.

B Ineligible Crops

The following crops are ineligible:

- any crop eligible to receive payments under Title I of the Food, Conservation, and Energy Act of 2008

Note: See 8-LP and 7-CN for Title I commodities.

- any plant that is invasive or noxious or has the potential to become invasive or noxious.

255 Project Eligible Crops Overview (Continued)

C Other BCAP Provisions for Projects

Within an approved project, all of the following apply:

- producers are eligible for enrollments of up to:
 - 5 years for annual or nonwoody perennial eligible crops
 - 15 years for woody perennial eligible crops
- establishment payments of up to 75 percent to establish nonwoody and woody perennial eligible crops may be available
- matching payments may be available for CHST of eligible material to QBCF.

Note: Additional guidance and forms will be provided in a future directive to implement this paragraph.

256-270 (Reserved)

--Section 2 Duration of BCAP-24's*271 BCAP-24 Duration****A Length and Type of BCAP-24's**

[7 CFR 1450.205] Contracts will be for a term of up to:

- 5 years for annual and nonwoody perennial crops; and
- 15 years for woody perennial crops.

B Duration Variations

The duration of BCAP-24 may vary for each BCAP-24. The BCAP-24 period will **not** exceed:

- 5 years for annual and nonwoody perennial crops
- 15 years for woody perennial crops.

Notes: The establishment time period may vary because of types of crop, agronomic conditions (for example, establishment timeframe, winter hardiness), and other factors.

See paragraph 272 for examples of BCAP-24's with different durations.

272 BCAP-24 Effective Dates**A Effective Date of BCAP-24**

The effective date of BCAP-24 is the first day of the month following the month COC approves BCAP-24, unless the producer elects to defer the effective date of BCAP-24. Participants on BCAP-24 may elect to defer BCAP-24 for up to 6 months.

Deferments of effective date greater than 6 months are considered invalid and will **not** be acted on or approved. See subparagraphs C and D for examples.

An effective date shall be entered in BCAP-24, item 6A.--*

--272 BCAP-24 Effective Dates (Continued)*A Effective Date of BCAP-24 (Continued)**

Because a producer may defer BCAP-24 effective date up to 6 months, all nonbiomass crops **must** be removed from the accepted acreage **before** the effective date of BCAP-24.

The effective date of BCAP-24 is BCAP-24's anniversary date, as displayed in item 6.

B Expiration Date

Expiration date of BCAP-24 is the last day of the month having the final anniversary date of BCAP-24. The expiration date is entered in BCAP-24, item 6B.

C Example of an Up to 5-Year BCAP-24

Producer submits BCAP-23 for land **not** currently enrolled in BCAP. BCAP-24 was approved by COC on February 22, 2011. The effective date is March 1, 2011, unless the producer chooses to defer the effective date. The producer may elect to defer the effective date for up to 6 months.

In this example, a 6-month deferment would result in an effective date of September 1, 2011.

The expiration date for this BCAP-24 is the last day of the month having the final anniversary date of BCAP-24. If the effective date is March 1, 2011, the expiration date of a 5-year duration BCAP-24 is February 29, 2016. If deferment to September 1, 2011, is elected, the expiration date of BCAP-24 is September 30, 2016.

Notes: The first annual payment is "due" on the first anniversary date of the effective date.

Annual payments will be paid as soon as practicable after the effective date and anniversary date of BCAP-24.

At present, advance first year annual payments **cannot** be practicably issued.--*

***--272 BCAP-24 Effective Dates (Continued)**

D Example of an Up to 15-Year BCAP-24

Producer submits BCAP-23 for land not currently enrolled in BCAP. BCAP-24 was approved by COC on February 22, 2011. The effective date is March 1, 2011, unless the producer chooses to defer the effective date. The producer may elect to defer the effective date for up to 6 months.

In this example, a 6-month deferment would result in an effective date of September 1, 2011.

The expiration date for this BCAP-24 is the last day of the month having the final anniversary date of the BCAP-24. If the effective date is March 1, 2011, the expiration date is February 29, 2026. If deferment to September 1, 2011, is elected, the expiration date of the BCAP-24 is September 30, 2026.

Notes: Annual payments will be paid as soon as practicable after the effective date and anniversary date of BCAP-24.

At present, advance first year annual payments cannot be practicably issued.--*

273-290 (Reserved)

--Section 3 Obligations of Participant*291 Participant Obligations Under BCAP-24****A BCAP-24 Participant Obligations**

[7 CFR 1450.206(a)] All participants subject to a BCAP contract must:

- (1) Carry out the terms and conditions of the BCAP-24;**
- (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 renewable biomass conversion technology;**
- (3) Comply with the highly erodible land and wetland conservation requirements of 7 CFR part 12;**
- (4) Implement a:**
 - (i) Conservation plan (CPO), or**
 - (ii) Forest stewardship plan, or**
 - (iii) Equivalent plan.**
- (5) Implement the conservation plan, forest stewardship plan, or equivalent plan which is part of the BCAP-24 according to the schedule of dates included in such plan, unless CCC determines that the participant cannot fully implement the plan for reasons beyond the producer's control and CCC and participant agree to a modified plan.**
- (6) Demonstrate compliance with the conservation plan, forest stewardship plan, or equivalent plan through required self-certification subject to compliance spot checks.**
- (7) Establish temporary vegetative cover either within the timeframes required by the conservation plan, forest stewardship plan, or equivalent plan or as determined by the Deputy Administrator, if the eligible crops cannot be timely established; and**
- (8) If the participant has a share of payment greater than zero, be jointly and severally responsible with the other contract participants for compliance with the provisions of the contract and the provisions of 7 CFR 1450, and for any refunds or payment adjustments that may be required for violations of any of the terms and conditions of the contract and 7 CFR 1450.**

Payments may cease and participants may be subject to BCAP-24 termination for failure to establish eligible crops.--*

***--291 Participant Obligations Under BCAP-24 (Continued)**

A BCAP-24 Participant Obligations (Continued)

BCAP-24 will **not** be terminated for failure of the participant to establish an approved cover on the land if it is determined by COC that both the:

- failure to plant or establish the cover was because of natural disaster, such as excessive rainfall, flooding, or drought
- participant establishes the approved cover as soon as practicable after the wet or drought conditions that prevented the establishment of the cover subside.

B Participant Commitments

According to subparagraph A, participants subject to BCAP-24 agree to all of the following:

- carry out the terms and conditions of BCAP-24, including BCAP-24 Appendix, and agree to convert agricultural or NIPF to the production of eligible biomass crops as listed in the approved project proposal
- share annual and establishment payments with owners and tenants who are a producer of the crop for which BCAP-24 is approved
- annually certify to FSA crop and land use all land enrolled under BCAP-24
- annually report to FSA the harvest, sale, and delivery of biomass crops to BCF's or any other buyers.--*

292-310 (Reserved)

***--Section 4 BCAP-24 Signups**

311 Pre-Signup Activity

A Publication of BCAP and Project Area Availability

FSA will announce approval of project areas. Establishment and annual BCAP payments will only be made available to eligible producers who have entered into an approved BCAP-24 for land physically located within a project area.

Following approval of a project area, BCAP-23's will be accepted continuously for eligible participants who are both of the following:

- owners, operator, or tenants on eligible land within a project area
- participants willing and having the ability to perform under terms of BCAP-24.

B Signup Suspension/Termination

At the discretion of DAFP, signup for BCAP in a project area can be suspended or terminated according to paragraph 312.--*

--312 BCAP-24 Signup*A Receiving BCAP-23's and BCAP-24's**

Producers will submit BCAP-23's at any time after signup for each specific approved project area has been announced. BCAP-24's will be accepted for processing from participants submitting completed and signed BCAP-23's.

Note: EMO must apply separately to participate in the matching payments component of BCAP **before** payment for the eligible material is received from QBCF. BCAP-24 signup provisions do not alter this requirement or deobligate a producer from having to first apply for matching payments separately under the matching payments component of BCAP.

See Part 3, Section 2 for program provisions on eligible material matching payments.

BCAP-24's will be processed on a first-come first-serve basis continuously until any of the following occur:

- project area acreage goal has been reached
- legal authority to enter into new BCAP-24 has expired
- a project sponsor's BCF shuts down or its biomass needs are otherwise reduced
- DAFP suspends or terminates signup, see subparagraph G.

Notes: Signup numbers will **not** be used for project areas. Each project area has its own unique ID number that will be displayed on BCAP-24's. The BCAP-24 number will be associated with the project area and will indicate the beginning and ending dates of the project.

A paid-for measurement service shall be completed for all acreage determined acceptable **before** BCAP-24 is approved except:

- official fields/CLU's
- BCAP-23 acreage determinations made using GIS tools by trained County Office GIS users for which field staking and referencing is **not** necessary.

Note: Producers submitting BCAP-23 and seeking stake and reference measurement service are responsible for any costs associated with stake and reference measurement services.--*

--312 BCAP-24 Signup (Continued)*B Separate BCAP-23's**

Persons entering into BCAP-24's **must** make separate BCAP-23's for:

- acreage within each FSA tract

Notes: More than 1 single tract can be entered on BCAP-23, however, only 1 tract may be enrolled on BCAP-24.

Multi-tracts will **not** be used for submitting BCAP-23's. See 2-CM for a definition of a tract. On land for which no farm or tract records exist, tracts **must** be established.

- land on BCAP-23 with different land classifications (cropland, NIPF, or pastureland/grassland/hayland)
- units of land with both woody perennial and either nonwoody perennial or annual energy crops with different BCAP-24 lengths.

Example: A producer submits BCAP-23 for land within an approved project area containing both annual energy and woody biomass crops. The annual crop is limited to a 5-year BCAP-24 length, while the woody perennial crop is limited to a 15-year BCAP-24 length. For this reason, a separate BCAP-23 and BCAP-24 **must** be completed for each biomass crop type.

Note: A single BCAP-23 will be used for lands that have the same BCAP-24 duration and same land classification regardless of the type of energy crop planted.

Producers are required to:

- indicate the energy crops to be established on BCAP-24 acreage
- identify BCAP-23 acreage and land classification types on copies of aerial photography.--*

--312 BCAP-24 Signup (Continued)*C Notifying Producers**

County Offices will notify producers of the following:

- acceptance or rejection of any BCAP-23 is at the sole discretion of CCC, and BCAP-23's may be rejected for any reason determined appropriate to accomplish the purpose of BCAP

Note: See Exhibit 30 for guidance on notifications required according to paragraph 315.

- except as provided under subparagraph D, BCAP-23 is irrevocable after BCAP-23 is accepted and BCAP-24 is approved

Note: The producer will be liable to CCC for liquidated damaged if BCAP-24 participant revokes BCAP-23 after BCAP-24 approval, as determined by CCC.

- BCAP annual payment amount, based on BCAP-23 land classification and other information on BCAP-23, as follows:

- per acre annual payment
- total BCAP-24 payment
- total estimated establishment payment
- BCAP-24 is a legal binding contract

Note: Producers who sign BCAP-23 and BCAP-24 with shares greater than zero are jointly and severally liable for adhering to the BCAP-24 Addendum, BCAP-24 Appendix, and conservation plan, FSP, or equivalent plan.

- changes are **not** allowed on the preprinted portions of BCAP-23, BCAP-24, or BCAP-24 Appendix
- any changes to entries of information recorded on BCAP-23, BCAP-24, or other BCAP form **must** be initialed and dated by both the employee making the change and the producer--*

--312 BCAP-24 Signup (Continued)*C Notifying Producers (Continued)**

- BCAP-24 **must** be signed and dated by all required signatories **before** COC may approve BCAP-24

Note: See paragraph 320 for BCAP-23 and BCAP-24 signature requirements.

- the total enrollment of **cropland** in BCAP (including BCAP enrolled acres having base acres) and CRP **cannot** exceed the total available **cropland** on an FSA farm tract
- the effective and expiration date of BCAP-24 as evidenced on BCAP-24.

Note: See paragraph 272 for applicable BCAP-24 beginning and ending dates of the contract period.

D Withdrawing BCAP-23's and Acreage Modifications

Producers may withdraw or modify BCAP-23 acreage under the continuous signup provisions, without penalty, anytime **before** BCAP-24 is approved.

Producers who withdraw or modify BCAP-23 acreage under BCAP signup before BCAP-24 is approved will **not** be assessed liquidated damages.

Note: Liquidated damages are applicable after BCAP-24 is approved. See paragraph 402.

Important: Liquidated damages applicable to BCAP may be substantially higher than liquidated damages under CRP.

E COC Responsibilities

Before submitting BCAP-23 and a map to NRCS, State forestry agency, or TSP, COC shall determine whether all eligibility requirements in Part 4, Section 1 are met and all producer commitments are agreed to according to paragraph 291.

If all applicable eligibility requirements in Part 4, Section 1 are **not** met, COC will not submit BCAP-23 to TSP.

See paragraph 315.--*

--312 BCAP-24 Signup (Continued)*F NRCS, State Forestry Agency, or TSP Responsibilities**

After receiving BCAP-23 and scenario GIS map from FSA, NRCS, State forestry agency, or TSP will make recommendations to COC about the following, as applicable:

- whether any existing crop already meets all eligible energy crop requirements as outlined in the approved proposal
- for BCAP-23's without an existing crop that meets all eligible energy crop requirements as outlined in the approved proposal, whether the land submitted in BCAP-23's is recommended to be agronomically suitable for growing any new energy crops specified in BCAP-23 submitted by the applicant as determined by NRCS, State forestry agency, or TSP
- for some BCAP-23's, NRCS, State forestry agency, or TSP may recommend that some field areas already have existing crops that meet all energy crop requirements, **and** other field areas that need to be planted to new energy crops that are agronomically suitable for the land.

Note: For new specialized energy crop plantings, NRCS, State forestry agency, or TSP is encouraged to perform a site visit to ensure land suitability for the crop proposed as listed in the project area.

For BCAP-23's, NRCS, State forestry agency, or TSP will do both of the following:

- develop an acceptable conservation plan, FSP, or equivalent plan in consultation with the participant after the offer for BCAP-24 has been approved by COC
- assist the participant with applicable plan implementation to establish the energy crops.--*

--312 BCAP-24 Signup (Continued)*G Suspension or Termination of Signup**

At any time DAFP deems appropriate, DAFP may:

- suspend or terminate signup in a project area
- resume or announce signup resumption in a project area that has previously had signup suspended or terminated.

Under no circumstances will any BCAP-23 or BCAP-24, submitted after suspension or termination of signup, subject CCC or FSA to any obligation. BCAP-23's and BCAP-24's submitted by producers after suspension or termination of signup will **not** be processed and **no** action whatsoever will be taken on BCAP-23's and BCAP-24's submitted outside an authorized signup period. BCAP-23's and BCAP-24's submitted by any person outside an authorized signup period have **no** force or effect and will receive **no** preferential ranking whatsoever. If a signup resumes, producers interested in enrollment must complete new BCAP-23's and BCAP-24's and submit new BCAP-23's and BCAP-24's to FSA without regard to BCAP-23's and BCAP-24's submitted outside a signup period.

Note: If a participant submits an offer after a signup has been terminated or suspended, advise the participant in writing of the following:

- the offer will not be processed because of suspension or termination of signup, as applicable
- if signup resumes, new offers must be submitted to receive consideration.--*

***--313 Completing BCAP-23's**

A Overview

BCAP-23 is required for all acreage that producers want to submit for enrollment on BCAP-24. BCAP-23 is used by FSA and NRCS, State forestry agency, or TSP to:

- calculate annual payment rates
- make eligibility determinations
- record administrative data.

B Completing BCAP-23

Complete BCAP-23 according to the following table.

All items in BCAP-23, Part A **must** be completed **before** producer signs BCAP-23 certification in Part B. If an item number is not applicable to BCAP-23, enter “N/A”.

All changes to data entered on BCAP-23, after producer signs BCAP-23, **must** be initialed and dated by both the employee making the change and the producer.

Item	Description
1	FSA farm number identifying the land on BCAP-23.
2	FSA tract numbers identifying the land on BCAP-23. Note: User may enter more than 1 single tract on BCAP-23; however, BCAP-24 will be generated and limited to: <ul style="list-style-type: none"> • 1 tract per BCAP-24 • length of BCAP-24, based on conservation practice, either 5 or 15 years.
3	Start and end dates proposed for BCAP-24 covering the land on BCAP-23. Note: Actual enrollment period is based on the effective date of BCAP-24 and the BCAP-24 duration. See paragraph 272.
4	ID number for the project area that includes the land on BCAP-23.
5A	State and county codes identifying the county administering BCAP-23 land for BCAP-24.
5B	State and county codes identifying the county where the land on BCAP-23 is physically located.
6A-D	Name, address, and telephone number of record for the producer making this BCAP-23.
7A-D	Name, address, and telephone number for the FSA County Office administering BCAP-23 land.

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*--313 Completing BCAP-23's (Continued)

B Completing BCAP-23 (Continued)

Item	Description
8A-C	<p>For each eligible:</p> <p>A. woody perennial</p> <p>B nonwoody perennial</p> <p>C annual biomass crop proposed for establishment on BCAP enrollment acres, record:</p> <p>(1) Tract Number, FSA tract number for the land on which the crop is proposed for establishment</p> <p>(2) Common Land Unit, FSA CLU or field number for the land on which the crop is proposed for establishment</p> <p>(3) Estimated Establishment Date, estimated date on which the proposed crop will be established on the recorded tract and CLU</p> <p>(4) Estimated First Harvest Date, estimated date on which the first harvest of the proposed crop will be made on the recorded tract and CLU</p> <p>Note: A harvest will include any collection of materials, where the material is then used for conversion to heat, power, biobased product, or advanced biofuel, or used in a nonfuel market.</p> <p>(5) Practice Control Number, FSA code describing the cropping practice used to establish the proposed crop</p> <p>Note: Codes will be propagated by the program software.</p> <p>(6) Eligible Crop, common name of the proposed crop.</p> <p>(7) Acres, number of acres of the proposed crop to be established on the recorded tract and CLU</p> <p>Note: BCAP-23 acres will always be equal to or greater than the number of eligible acres or acres accepted on BCAP-24.</p> <p>(8) Estimated Production, estimated production of biomass from the proposed crop on the recorded tract and CLU.</p> <p>Note: This production shall be recorded in dry tons produced per acre in a calendar year.</p>

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*--313 Completing BCAP-23's (Continued)

B Completing BCAP-23 (Continued)

Item	Description
9A (1)-(3)	For the 3 most prevalent soils on BCAP-23 cropland, record: (a) Soil Survey ID Number, ID number for the NRCS soil survey that includes the soil (b) Map Unit Symbol, symbol used to represent the soil in the soil survey documents (c) Eligible Acres, number of acres, measured to a precision of tenths of an acre, of cropland on BCAP-23 that are eligible for enrollment made up of the soil (d) Soil Rental Rate, CRP rental rate for the soil, in dollars (e) Total Rent, product of item (c) multiplied times (d), in dollars and cents.
9A (4)-(8)	For the 3 most prevalent soils on BCAP-23 cropland, record: (4) Totals, sums of item (c) plus (e) (5) Weighted Average Soil Rental Rate, sum total of item (e) divided by the sum total of (c), recorded in dollars and cents (6) Project Area Incentive Rate, project area specific incentive amount for cropland, recorded in dollars and cents (7) Annual Payment Rate, sum total of items (5) plus (6) (8) Total Annual Payment, product of item (7) multiplied times the sum total of (4c).

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*--313 Completing BCAP-23's (Continued)

B Completing BCAP-23 (Continued)

Item	Description
<p>9B (1)-(3)</p>	<p>For agricultural land that is not cropland, record the following data for the marginal pastureland, marginal pastureland adjacent to seasonal streams, or marginal pastureland adjacent to perennial streams:</p> <p>(a) Soil Survey ID Number, ID number for the NRCS soil survey that includes the soil</p> <p>(b) Map Unit Symbol, FSA symbol used to represent marginal pastureland in the county</p> <p>(c) Eligible Acres, number of acres, measured to a precision of tenths of an acre, of noncrop agriculture land on BCAP-23 that are eligible for enrollment made up of the soil</p> <p>(d) Soil Rental Rate, CRP rental rate for the soil, in dollars</p> <p>(e) Total Rent, product of (c) multiplied times (d), in dollars and cents.</p>
<p>9B (4)-(8)</p>	<p>For the 3 most prevalent soils on BCAP-23 noncrop agriculture land, record:</p> <p>(4) Totals, sums of items (c) plus (e)</p> <p>(5) Weighted Average Soil Rental Rate, sum total of (e) divided by the sum total of (c), recorded in dollars and cents</p> <p>(6) Project Area Incentive Rate, project area specific incentive amount for noncrop agriculture land, recorded in dollars and cents</p> <p>(7) Annual Payment Rate, sum total of item (5) plus (6)</p> <p>(8) Total Annual Payment, product of item (7) multiplied by the sum total of (4c).</p>

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*--313 Completing BCAP-23's (Continued)

B Completing BCAP-23 (Continued)

Item	Description
9C (1)-(3)	For the most prevalent soil on BCAP-23 NIPF, record: (a) Soil Survey ID Number, ID number for the NRCS soil survey that includes the soil (b) Map Unit Symbol, symbol used to represent the soil in the soil survey documents (c) Eligible Acres, number of acres, measured to a precision of tenths of an acre, of NIPF on BCAP-23 that are eligible for enrollment made up of the soil (d) Soil Rental Rate, CRP rental rate for the soil, in dollars (e) Productivity Adjustment Factor, a factor in the soil survey describing the soil productivity for the recorded soil Notes: Record as a number between 0.00 and 1.00. Disregard the terms “primary”, “secondary”, and “tertiary” on BCAP-23. (f) Total Rent, product of item (c) multiplied times (d) times (e), in dollars and cents.
9C (4)-(8)	For the most prevalent soil on BCAP-23 NIPF, record: (4) Totals, sums of items (c) plus (e) (5) Weighted Average Soil Rental Rate, sum total of item (e) divided by the sum total of (c), recorded in dollars and cents (6) Project Area Incentive Rate, project area specific incentive amount for NIPF , recorded in dollars and cents (7) Annual Payment Rate, sum total of item (5) plus (6) (8) Total Annual Payment, product of item (7) multiplied times the sum total of (4c).
10	For FSA office use.
11	Printed name of the producer submitting BCAP-23.
12	Signature of the producer submitting BCAP-23.
13	Enter signing representative’s title that is assigned to the individual by the entity or best reflects the signing representative’s role with the entity.
14	Enter date on which the representative signed BCAP-23 in mm/dd/yyyy format.
15	For FSA office use.

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*--313 Completing BCAP-23's (Continued)

C Example of BCAP-23

This form is available electronically. Form Approved – OMB No. 0560-0082

<p>BCAP-23 (01-05-11)</p> <p style="text-align: center;">U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation</p> <p style="text-align: center;">BIOMASS CROP ASSISTANCE PROGRAM (BCAP) WORKSHEET (Establishment and Annual Payments for Producers)</p> <p><i>(See Page 3 for Privacy Act and Public Burden Statements.)</i></p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">1. Farm Number 1486</td> <td style="width: 50%;">2. Tract Number(s) 31</td> </tr> <tr> <td colspan="2">3. Proposed Enrollment Period: FROM: (MM-DD-YYYY) 04-18-2011 TO: (MM-DD-YYYY) 04-18-2026</td> </tr> <tr> <td colspan="2">4. Project Area ID Number 1</td> </tr> <tr> <td>5A. Admin ST/ CO Code 24/041</td> <td>5B. Physical Location ST/ CO Code 24/041</td> </tr> </table>	1. Farm Number 1486	2. Tract Number(s) 31	3. Proposed Enrollment Period: FROM: (MM-DD-YYYY) 04-18-2011 TO: (MM-DD-YYYY) 04-18-2026		4. Project Area ID Number 1		5A. Admin ST/ CO Code 24/041	5B. Physical Location ST/ CO Code 24/041
1. Farm Number 1486	2. Tract Number(s) 31								
3. Proposed Enrollment Period: FROM: (MM-DD-YYYY) 04-18-2011 TO: (MM-DD-YYYY) 04-18-2026									
4. Project Area ID Number 1									
5A. Admin ST/ CO Code 24/041	5B. Physical Location ST/ CO Code 24/041								
PART A – ADMINISTRATIVE DATA TO BE COMPLETED BY FSA									
6A. Producer's Name Divad Rolyat	7A. County Office Name Easton Service Center/Talbot								
6B. Producer's Street Address 10214 Farm Road	7B. County Office Street Address 28577 Marys CT								
6C. City, State, ZIP Anywhere, MD 00000	7C. City, State, ZIP Easton, MD 21601								
6D. Telephone Number (Include Area Code) (555) 555-1212	7D. Telephone Number (Include Area Code) (555) 555-1212								
8. Proposed Crops (See page 4 if more space is needed)									
8A. Woody Perennial Biomass Crops:									
(1) Tract Number	(2) Common Land Unit	(3) Estimated Establishment Date (MM-DD-YYYY)	(4) Est. First Harvest Date (MM-DD-YYYY)	(5) Practice Control Number	(6) Eligible Crop	(7) Acres		(8) Estimated Production (Dry Tons/Ac/Yr)	
						Offered	Eligible		
31	1	03-20-2012	08-20-2015	BC2C	Pine-Junipe	20	20	10	
31	3	03-20-2012	08-20-2016	BC2C	Pine-Junipe	10	10	10	
8B. Non-Woody Perennial Biomass Crops:									
(1) Tract Number	(2) Common Land Unit	(3) Estimated Establishment Date (MM-DD-YYYY)	(4) Est. First Harvest Date (MM-DD-YYYY)	(5) Practice Control Number	(6) Eligible Crop	(7) Acres		(8) Estimated Production (Dry Tons/Ac/Yr)	
						Offered	Eligible		
31	4	08-20-2012	08-01-2013	BC1B	Miscanthus	10	10	3	
31	4	08-20-2012	08-01-2013	BC1B	Miscanthus	10	10	3	
31	5	08-20-2012	08-01-2013	BC1B	Miscanthus	10	10	3	
31	5	08-20-2012	08-01-2013	BC1B	Miscanthus	20	15	3	
8C. Annual Biomass Crops:									
(1) Tract Number	(2) Common Land Unit	(3) Estimated Establishment Date (MM-DD-YYYY)	(4) Est. First Harvest Date (MM-DD-YYYY)	(5) Practice Control Number	(6) Eligible Crop	(7) Acres		(8) Estimated Production (Dry Tons/Ac/Yr)	
						Offered	Eligible		
31	6	03-05-2012	08-01-2014	BC1A	Camelina	15	15	2	
31	6	03-05-2012	08-01-2015	BC1A	Camelina	15	15	2	

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*--313 Completing BCAP-23's (Continued)

C Example of BCAP-23 (Continued)

BCAP-23 (01-05-11)						Page 2 of 4
9. Annual Payment Calculation						
9A. Cropland Calculation:						
	(a) Soil Survey ID Number	(b) Map Unit Symbol	(c) Eligible Acres	(d) Soil Rental Rate (\$)	(e) Total Rent (\$)	
(1) Primary	MD041	CaA	10	82	820	
(2) Secondary	MD041	CoA	15	66	990	
(3) Tertiary	MD041	CsA	20	95	1900	
(4) Totals:			45		\$ 3710	
(5) Weighted Average Soil Rental Rate <i>(Per Acre) (Item (e) total divided by Item (c) total)</i>		(6) Project Area Incentive Rate <i>(Per Acre) (If applicable)</i>	(7) Annual Payment Rate <i>(Per Acre)</i> <i>(Item (5) + Item (6))</i>		(8) Total Annual Payment <i>(Item (7) x Total Acres Eligible)</i>	
\$ 82.44		16.48	\$ 98.92		\$ 4,451.40	
9B. Non-Crop Agland Calculation:						
	(a) Soil Survey ID Number	(b) Map Unit Symbol	(c) Eligible Acres	(d) Soil Rental Rate	(e) Total Rent	
(1) Marginal Pasture Land-All	MD041	MPLALL	30	34	1020	
(2) Marginal Pasture Land-Sea.						
(3) Marginal Pasture Land-Perr.						
(4) Totals:			30		1020	
(5) Weighted Average Soil Rental Rate <i>(Per Acre) (Item (e) total divided by Item (c) total)</i>		(6) Project Area Incentive Rate <i>(Per Acre) (If applicable)</i>	(7) Annual Payment Rate <i>(Per Acre)</i> <i>(Item (5) + Item (6))</i>		(8) Total Annual Payment <i>(Item (7) x Total Acres Eligible)</i>	
\$ 34		5.10	\$ 39.10		\$ 1,173	
9C. Non-Industrial Private Forestland (NIPF) Calculation:						
	(a) Soil Survey ID Number	(b) Map Unit Symbol	(c) Eligible Acres	(d) Soil Rental Rate	(e) Productivity Adjustment Factor	(f) Total Rent
(1) Primary	AL001	AVGRT	30	86	0.10	258.00?
(2) Secondary						
(3) Tertiary						
(4) Totals:			30			
(5) Weighted Average Soil Rental Rate <i>(Per Acre) (Item (f) total divided by Item (c) total)</i>		(6) Project Area Incentive Rate <i>(Per Acre) (If applicable)</i>	(7) Annual Payment Rate <i>(Per Acre)</i> <i>(Item (5) + Item (6))</i>		(8) Total Annual Payment <i>(Item (7) x Total Acres Eligible)</i>	
\$ 8.60		.86	\$ 9.46		\$ 283.80	
10. Remarks						
<p>The Project Area Incentive Rate (6) is a percentage of the WASSR and may be different per project area. The Productivity Adjustment Factor 9C(a) is a percentage of the Soil Rental Rate and may be different per county.</p> <p>To Calculate Annual Rental Rate per Acre, BCAP 24 Box 9A for a scenario that includes cropland, non-crop agland and NIPF:</p> $(45*98.92) + (30*39.10) + (30*9.46) / (45+30+30)$ $4451.40+1173+283.80/105$ $5908.20/105$ 57.27						

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*--313 Completing BCAP-23's (Continued)

C Example of BCAP-23 (Continued)

BCAP-23 (01-05-11)		Page 3 of 4	
PART B – PRODUCER CERTIFICATION STATEMENT AND SIGNATURES			
By signing below I certify to all of the following			
In general:			
<p>(1) I am the owner or operator of the land being offered; (2) to the best of my knowledge and belief the acreage of annual and/or perennial crops, including woody perennial crops and land listed on this form are true and complete; (3) I agree to grow eligible crops on the enrolled acreage; (4) I understand that establishing eligible crops suitable for biomass production does not ensure that a biomass conversion facility (BCF) will purchase the harvested product; and (5) that CCC is not liable if the BCF with whom I have arranged to sell my eligible crops changes the terms and conditions of the purchase of such biomass products produced on land under contract.</p>			
Environmental Compliance			
<p>(6) I will fully comply with all of the terms and conditions of the BCAP conservation, forest stewardship, or equivalent plan; (7) I am in compliance with the highly erodible land conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and the wetland conservation requirements of subtitle C of title XII of that Act; (8) the land that I am offering is not Federal or State owned, is physically located in an approved BCAP project area, and is not native sod (described in the program regulations and generally native sod is native grass or vegetation never tilled before June 18, 2008; and (9) the land that I am offering is not enrolled in the Conservation Reserve Program, Wetlands Reserve Program, Grassland Reserve Program, or subject to restrictions such as easements or conveyances that conflict with the production of energy crops as contemplated by this form.</p>			
Sale Notification and Costs			
<p>(10) I will notify CCC within 14 calendar days after the sale of biomass from land enrolled in the program; (11) I understand the estimated cost of establishing the eligible crops offered; and (12) I understand that I may be required to pay for a measurement service on the acreage offered before such acreage may be enrolled in the BCAP.</p>			
Inspection and Information Sharing			
<p>(13) The signing of this form gives USDA representatives authorization to enter and inspect crops and land uses and for other purposes on the above identified land, and (14) I agree to make available to the Secretary, or to an institution of higher education or other entity as designated by the Secretary, such information the Secretary considers to be appropriate to promote the production of eligible crops and the development of biomass conversion technology and otherwise further the purposes of the BCAP.</p>			
<p>(15) I understand that any inaccuracies in this certification could result in a payment reduction or loss of program benefits, and that the remedies provided for in program authorities may be in addition to any liability which may be incurred under various criminal and civil fraud statutes, including, but not limited to, 18 U.S.C. 1001 and 15 U.S.C. 714m; (16) I understand that the acceptance of this form by the CCC is not an acceptance into the BCAP program or an authorization of payments and that estimates may be corrected at any time.</p>			
11. Producer's Name	12. Producer's Signature (By)	13. Title/Relationship of the Individual if Signing in a Representative Capacity	14. Date (MM-DD-YYYY)
Divad Rolyat		Self	04-18-2011
15. Eligibility Remarks			
<p>NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1450, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used by CCC to review a producer's (must be located within a designated project area) request for contract acreage and establishment and annual payments under the Biomass Crop Assistance Program. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability on the part of CCC to review a producer's (must be located within a designated project area) request for contract acreage and establishment and annual payments under the Biomass Crop Assistance Program.</p> <p>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0082. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.</p>			

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*--313 Completing BCAP-23's (Continued)

C Example of BCAP-23 (Continued)

BCAP-23 (01-05-11)						Page 4 of 4		
CONTINUATION OF ITEM 8								
8. Proposed Eligible Crops								
8A. Woody Perennial Biomass Crops:								
(1) Tract Number	(2) Common Land Unit	(3) Estimated Establishment Date (MM-DD-YYYY)	(4) Est. First Harvest Date (MM-DD-YYYY)	(5) Practice Control Number	(6) Eligible Crop	(7) Acres		(8) Estimated Production (Dry Tons/Ac/Yr)
						Offered	Eligible	
8B. Non-Woody Perennial Biomass Crops:								
(1) Tract Number	(2) Common Land Unit	(3) Estimated Establishment Date (MM-DD-YYYY)	(4) Est. First Harvest Date (MM-DD-YYYY)	(5) Practice Control Number	(6) Eligible Crop	(7) Acres		(8) Estimated Production (Dry Tons/Ac/Yr)
						Offered	Eligible	
8C. Annual Biomass Crops:								
(1) Tract Number	(2) Common Land Unit	(3) Estimated Establishment Date (MM-DD-YYYY)	(4) Est. First Harvest Date (MM-DD-YYYY)	(5) Practice Control Number	(6) Eligible Crop	(7) Acres		(8) Estimated Production (Dry Tons/Ac/Yr)
						Offered	Eligible	

--*

***--314 Completing BCAP-24's**

A Overview

For initial enrollment, BCAP-23 is required to complete BCAP-24. All items on BCAP-24 **must** be completed before producer signs BCAP-24.

All changed entries on BCAP-24, after producer signs BCAP-24, **must** be initialed and dated by both the employee making the change and the producer.

Notes: Complete BCAP-24 according to subparagraph B.

See paragraph 315 for notifying producers.

B Completing BCAP-24

Complete BCAP-24 according to the following table.

All items in BCAP-24 must be completed **before** producer signs BCAP-24.

All changes to data entered on BCAP-24, after producer signs BCAP-24, **must** be initialed and dated by both the employee making the change and the producer.

Item	Description
1	FSA farm number identifying the land included on BCAP-24.
2	FSA tract number identifying the land included on BCAP-24.
3	FSA enrollment number assigned to BCAP-24.
4	Total number of acres included on BCAP-24.
5A-D	Name, address, and telephone number for the FSA County Office administering the land on BCAP-24.
6	Start and end dates for the BCAP enrollment period. See paragraph 272.
7A	State and county codes identifying county administering the land on BCAP-24.
7B	State and county codes identifying county where the land on BCAP-24 is physically located.
8	ID number for the project area that includes the land on BCAP-24. Note: From the corresponding BCAP-23, item (4).

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*--314 Completing BCAP-24's (Continued)

B Completing BCAP-24 (Continued)

Item	Description
9A	Amount on a per acres basis to be paid by CCC to the participants of BCAP-24 as calculated on BCAP-23.
9B	Total number of acres included on BCAP-24. Note: From the corresponding BCAP-23, items (1) and (2).
9C	Total annual enrollment payment calculated as the product of items 9A multiplied times 9B.
9D	Annual payment to be made the first year of the enrollment based on the calendar year covered between the effective date and anniversary of the effective date in the following year.
9E	At present, partial payments are not being offered or authorized. This item will be left blank .
10	<p>A. Common Land Unit, FSA CLU or field identifying all of a portion of the area included on BCAP-24</p> <p>B. BCAP Practice, FSA code identifying the establishment practice</p> <p>C. Acres Accepted, number of acres in the identified CLU covered by the identified practice</p> <p>D. Total Estimated Establishment Payment by Field, estimated establishment C/S that will be paid for the identified practice in the identified CLU</p> <p>E. Total Estimated Establishment Payment, sum total of item 10D amounts including amounts on any attached continuation sheet.</p>
11	<p>(1) Name and Address, name and address of the enrolled participant</p> <p>(2) Share, percentage of BCAP-24 payment</p> <p>(3) Signature, signature of producer participating in BCAP-24</p> <p>(4) Title/Relationship of the Individual if Signing in a Representative Capacity, signing representative's title that is assigned to the individual by the entity or best reflects the signing representative's role with the entity</p> <p>(5) Date, date on which the representative signed BCAP-24 in mm/dd/yyyy format.</p> <p>Note: Signatures and dates must be entered on or before date entered in BCAP-24, item 6A.</p>
12 A and B	<p>Signature of CCC representative approving BCAP-24 and date on which CCC representative signed BCAP-24 in mm/dd/yyyy format.</p> <p>Note: These items are for CCC use only.</p>

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*--314 Completing BCAP-24's (Continued)

C Example of BCAP-24

This form is available electronically. Form Approved – OMB No. 0560-0082

BCAP-24 (01-05-11) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation BIOMASS CROP ASSISTANCE PROGRAM (BCAP) APPLICATION (Establishment and Annual Payments)		1. Farm Number <p style="text-align: center;">1486</p> 2. Tract Number(s) <p style="text-align: center;">31</p> 3. Enrollment Number <p style="text-align: center;">1</p> 4. Enrolled Acres <p style="text-align: center;">105</p>		
5A. County Office Name Easton Service Center/Talbot	6A. Enrollment Period: FROM (MM-DD-YYYY) <p style="text-align: center;">05-01-2011</p>	6B. Enrollment Period: TO (MM-DD-YYYY) <p style="text-align: center;">05-31-2026</p>		
5B. County Office Street Address 28577 Marys CT	7A. Admin. ST. & CO Code <p style="text-align: center;">24/041</p>	7B. Phys. Loc. ST & CO Code <p style="text-align: center;">24/041</p>		
5C. City, State, ZIP Easton, MD 21601	8. Project Area ID Number: 1			
5D. Telephone Number (Include Area Code): 410-000-0000				
<p><i>THIS Application is for purposes of seeking payments from the Commodity Credit Corporation (referred to as "CCC") on behalf of the undersigned owners, operators, or tenants (who may be referred to as "the Participant"). If accepted the Participant agrees to place the designated acreage into the Biomass Crop Assistance Program ("BCAP") from the date the Application is approved by the CCC. The Participant also agrees to implement on such designated acreage the conservation, forest, stewardship, or equivalent plan for biomass crop production developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant agrees to comply with the terms and conditions contained in this Application including the Appendix to this document entitled Appendix to BCAP-24 Biomass Crop Assistance Program Application (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix has been provided to such person. Such person also agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant removes or modifies acres after application approval. The terms and conditions of any approval are contained in this form BCAP-24 and in BCAP-24 Appendix, and all related addendum and forms related to participation in the BCAP program. BY SIGNING THIS APPLICATION FOR PAYMENTS PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: BCAP-23; BCAP-24; BCAP-24 APPENDIX AND ANY ADDENDUM THERETO; IF APPLICABLE.</i></p>				
10. Identification of BCAP Land (See Page 2 for additional space)				
	A. Common Land Unit	B. BCAP Practice	C. Acres Accepted	D. Total Estimated Establishment Payment by Field
9A. Annual Rental Rate Per Acre (BCAP-23) \$ 9.46				
9B. Total Acres Accepted (BCAP-23) 30				
9C. Annual Payment (BCAP-23) \$ 283.80	1	BC2C	20	\$ 2000.00
9D. First Year Annual Payment \$	3	BC2C	10	\$ 1000.00
9E. Advanced Partial First Year Payment \$				\$
E. Total Estimated Establishment Payment				\$ 3000.00
11. PARTICIPANTS (If more than three individuals are signing, continue on attachment.)				
A(1) Name and Address (Zip Code):	(2) Share	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)
Divad Rolyat 10214 Farm Road Anywhere, MD 00000	50%		Self	04-19-2011
Elleinad Edoramla 1234 Main Street Anywhere, VA 00000	50%		Self	04-21-2011
C(1) Name and Address (Zip Code):	%		(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)
12. CCC USE ONLY – Payments according to the shares are approved.		A. Signature of CCC Representative		B. Date (MM-DD-YYYY)
<p>NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1450, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used by CCC to review a participant's (must be located within a designated project area) contract under the Biomass Crop Assistance Program. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability on the part of CCC to review a participant's (must be located within a designated project area) contract under the Biomass Crop Assistance Program.</p> <p>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0082. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8042 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.</p>				
<input type="checkbox"/> Original – County Office Copy <input type="checkbox"/> Owner's Copy <input type="checkbox"/> Operator's Copy				

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*--314 Completing BCAP-24's (Continued)

C Example of BCAP-24 (Continued)

BCAP-24 (01-05-11)		CONTINUATION OF ITEM 11 – PARTICIPANTS			Page 3 of 3
11. PARTICIPANTS					
A(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
B(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
C(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
D(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
E(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
F(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
G(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
H(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
I(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
J(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
K(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	
L(1) Name and Address (<i>Zip Code</i>):	(2) Share %	(3) Signature (By)	(4) Title/Relationship of the Individual if Signing in a Representative Capacity	(5) Date (MM-DD-YYYY)	

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--315 Notifying Producers Who Submit BCAP-23's*A Unacceptable BCAP-23**

Before submitting BCAP-23 and a map to NRCS, FS, State forestry agency, or TSP, COC will determine whether all eligibility requirements in Part 4, Section 1 are met and that all producer commitments are agreed to according to paragraph 291.

If all applicable eligibility requirements in Part 4, Section 1 are **not** met, COC will:

- not submit BCAP-23 to NRCS, FS, State forestry agency, or TSP
- notify the producer, in writing, that BCAP-23 was **not** acceptable (Exhibit 30, paragraph A).

B Acceptable BCAP-23

If BCAP-23 is returned from NRCS or TSP and all eligibility requirements are met, COC will notify the producer that BCAP-23 and BCAP-24 **must** be completed and signed.

Important: BCAP-23's and BCAP-24's, not signed by a producer within 30 calendar days of the date the producer is notified BCAP-24 is ready for signature, will not be acted on by COC.

If producer completes BCAP-23 and BCAP-24 with an acceptable per acre rental rate offered amount and signs BCAP-23 and BCAP-24, County Office will provide producer BCAP-24 Appendix and inform producer:

- BCAP-23 and BCAP-24 are acceptable (Exhibit 30, paragraph B)
- of all the requirements needed for BCAP-24 approval, such as:
 - working with NRCS or TSP to obtain an acceptable conservation plan
 - completing a paid for measurement service
 - signed landlord/tenant certification statement, if applicable.

Note: The statement may be provided in response to concern over the division of program payments discussed in subparagraph 406 A.--*

--315 Notifying Producers Who Submit BCAP-23's (Continued)*B Acceptable BCAP-23 (Continued)**

All changes to data entered on BCAP-23 and BCAP-24 after producer signs BCAP-23 and BCAP-24 **must** be initialed and dated by both the employee making the change and the producer.

BCAP-24's not approved within 6 months of the date the producer signs BCAP-24 must be rejected.

Note: See paragraph 272.

County Office will notify participant, in writing, of BCAP-24 approval and BCAP-24 effective date. See Exhibit 30, paragraph C.

316 Announcing County BCAP Project Areas**A County Offices Announcing BCAP**

County Offices will use practicable available means to announce that a project area has been approved and to inform producers of the following:

- BCAP eligibility requirements
- locations and dates for informational meetings
- dates for submitting BCAP-23's
- BCAP provisions, including general terms and conditions
- information needed to submit BCAP-23's, such as fields to be identified and number of acres.

B Statement of Participation

All eligible owners and operators, regardless of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status, will have an opportunity to submit BCAP-23 or BCAP-24.--*

317 (Reserved)

***--318 Assisting Producers During Signup**

A Land Eligibility Determinations

[7 CFR 1450.204] (a) Eligible land must be physically and legally capable of producing an eligible crop and must be:

(1) Agricultural land; or

(2) Nonindustrial private forest land.

(b) Eligible land is not:

(1) Federal- or State-owned land, including land owned by local governments or municipalities;

(2) Land that is native sod;

(3) Land enrolled in the Conservation Reserve Program operated under part 1410 of this chapter;

(4) Land enrolled in the Wetlands Reserve Program operated under part 1467 of this chapter; or

(5) Land enrolled in the Grassland Reserve Program operated under part 1415 of this chapter.

Land on BCAP-23 will be considered eligible if the land is any of the following:

- agricultural land
- cropland
- DCP cropland
- NIPF.--*

--318 Assisting Producers During Signup (Continued)*B County Office Responsibilities**

County Offices will use the following as a guide in the signup period. **Before producer submits BCAP-23**, County Office will do the following:

- provide general information about BCAP, such as a fact sheet
- explain the eligible land, establishment payment, and annual payment provisions
- verify that land on BCAP-23 meets the requirements of subparagraph A
- delineate acres to be included on BCAP-23
- offer producer measurement service to determine acreage on BCAP-23

Notes: Paid-for measurement service will be completed for acreage on BCAP-23 before BCAP-24 can be approved. See paragraph 315.

See 2-CP.

- determine acres **before** processing BCAP-23
- process BCAP-23 through web BCAP
- advise producers of the limitation and opportunity for withdrawing or modifying BCAP-23 before BCAP-24 is approved according to paragraph 312
- provide producers with copy of BCAP-24 Appendix before or at the time producers submit BCAP-23
- have producer sign completed BCAP-23 and BCAP-24, as appropriate and as required

Note: Only 1 signature is required to transmit an eligible BCAP-23. All signatures of all participants must be entered on BCAP-24 before COC approved BCAP-24.

- file all documents, including BCAP-23, in the producer's folder.--*

--318 Assisting Producers During Signup (Continued)*C Separate BCAP-23**

Each producer, depending on the eligibility determination and the practices selected, will submit only one BCAP-23 by tract number, per program year, per signup.

Notes: The definition of a tract in 2-CM and 7 CFR Part 718 applies and will be used for BCAP.

More than 1 single tract can be entered on BCAP-23; however, only 1 single tract is permitted on BCAP-24.

Multi-tracts shall **not** be used for submitting BCAP-23's. BCAP-23's must be submitted on a tract basis.

If a producer submits multiple BCAP-23's, some of which are determine unacceptable, the producer may withdraw or modify any or all BCAP-23's. Liquidated damages will **not** apply provided BCAP-23 has not been affirmed on BCAP-24.

Note: Acceptable BCAP-23's on different tract numbers will **not** be combined under 1 tract number.

Separate BCAP-24's are required for each:

- tract on BCAP-23
- enrollment period as shown on BCAP-24, items 6A and 6B.

D Material for Producers

Provide copies of FSA informational material to producers submitting BCAP-23's. Provide copies of procedures in handbook, if requested. Advise participants that a pdf version of the handbook and notices are available online at the following:

- <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=lare&topic=hbk>
- http://www.fsa.usda.gov/FSA/notices?area=home&subject=empl&topic=not&setflag=FROMURL&getdata=none.--*

***--319 Providing BCAP-24 and BCAP-24 Appendix**

A Instructions to Producers

Producers will be advised that:

- BCAP-24 (paragraph 314) is a binding contract; BCAP-24's are irrevocable after BCAP-24 has been approved

Note: Producers withdrawing BCAP-24 after BCAP-24 has been approved are subject to liquidated damages according to BCAP-24 Appendix and paragraph 402.

- changes are not permitted on preprinted portion of BCAP-24 and BCAP-24 Appendix
- any changes to data entered on BCAP-24 must be initialed and dated by both the producers subject to the BCAP-24 and the FSA employee effecting the changes
- BCAP-24 must be signed and dated by all signatories (subparagraph 314 B, item 11).

B What to Give Producers Submitting BCAP-23's

When the producer is ready to submit BCAP-23, County Offices will provide a copy of the BCAP-24 and BCAP-24 Appendix to the producer.--*

--320 Signature Requirements*A Required Signatures**

All owners, operators, and tenants who have an interest in the acreage on BCAP-23 must sign BCAP-24, including owners with zero shares in BCAP establishment or annual payments. Each person who signs BCAP-24 for a share greater than zero:

- has entered into a 5-, 10-, or 15-year binding agreement with CCC

Exception: See landlord and tenant provisions.

- is jointly and severally liable for complying with provisions of BCAP-24.

B Owner Signatures

An owner whose name is on the deed to any land on BCAP-24 must sign BCAP-24.

C Requirements Exceptions

The requirements for signatures apply unless a:

- trustee of BIA representing the Native Americans owning the land signs on their behalf

Note: All BCAP-24's signed by BIA representative on behalf of Native Americans owning land will be reviewed by the regional attorney. COC will **not** approve BCAP-24 until the regional attorney determines that requisite signatures have been obtained.

- Native American has a restrictive 5-year BIA farm lease that has been extended according to BIA provisions.--*

***--321 Withdrawing or Modifying BCAP-23's**

A Withdrawing BCAP-23

Producers can voluntarily withdraw from BCAP anytime without penalty **before** BCAP-24 is approved. After BCAP-24 has been entered into and approved, termination of BCAP-24 will occur for withdrawal, and refunds, interest, and liquidated damages will apply.

A request to withdraw BCAP-23 will be:

- in writing
- filed in the producer's folder
- accepted, provided BCAP-24 has not already been approved.

B Recording Withdrawn BCAP-23

If BCAP-23 is withdrawn before BCAP-24 has been entered into or approved, enter the following on BCAP-23:

- word "withdrawn" annotated in bold, red letters
- signature of the person authorizing withdrawal of BCAP-23
- date withdrawal was made.

When BCAP-23 is withdrawn before BCAP-24 is entered into or approved, if requested, provide a new BCAP-23 and BCAP-24 to producers submitting BCAP-23 during signup.

C Modifying BCAP-23

Provided BCAP-24 has not been approved for the land, producers who timely submitted BCAP-23 may modify BCAP-23 to change from 1 eligible conservation practice to another eligible conservation practice.--*

--322 Succession to BCAP-23's*A General Policy**

Succession-in-interest provisions do not apply to BCAP-23 **except** for:

- immediate family members of the individual that submitted BCAP-23, according to subparagraph B
- a person or entity taking title to the land on BCAP-23 when the individual who submitted BCAP-23 has died (subparagraph C).

All eligibility provisions apply to successors.

B Succession to BCAP-23 by Immediate Family Member

An immediate family member of the individual who submitted BCAP-23 may succeed to the individual on BCAP-23 if **all** the following are met:

- the individual that submitted BCAP-23 met all eligibility requirements
- successor signs BCAP-23 acknowledging acceptance of terms in BCAP-23 as originally submitted

Note: No modifications to the original BCAP-23 are permitted. If modifications are desired, consider the original BCAP-23 withdrawn in its entirety.

- immediate family member succeeding to the individual predecessor's BCAP-23 meets all other eligibility provisions before BCAP-24 is approved

Note: If BCAP-24 is terminated, successor will be responsible for refunds, interest, and liquidated damages as applicable.

- immediate family member who wants to be a successor under these provisions is a parent, child, sibling, grandparent, adopted child, or spouse of the individual predecessor.--*

--322 Succession to BCAP-23's (Continued)*C Succession When Individual Predecessor Who Submitted BCAP-23 Dies**

Succession-in-interest rights to BCAP-23 apply when the individual:

- who submitted BCAP-23 dies before BCAP-24 is entered into and approved
- or entity taking title to the land elects to succeed to BCAP-23.

The individual or entity taking title to the land may succeed to an acceptable BCAP-23, if all the following are met:

- individual or entity that submitted BCAP-23 met all eligibility requirements
- successor signs BCAP-23 acknowledging acceptance of BCAP-23 as originally submitted

Note: No modifications to the original BCAP-23 are permitted. Successor cannot modify or revise the original BCAP-23.

- successor meets all other eligibility requirements before BCAP-24 is approved.

Note: Successor to BCAP-23 on a subsequent approved BCAP-24 is liable for refunds, interest, and liquidated damages.

D Notify Eligible Successors to BCAP-23

COC will notify eligible successors to BCAP-23 that:

- they have 60 calendar days from the date of notification to succeed to the acceptable BCAP-23
- BCAP-23 will be null and void if it is not succeeded to by an eligible successor within 60 calendar days of notification
- no revisions or modifications, other than succession to the original BCAP-23, are authorized.--*

***--323 Processing BCAP-23's**

A Reviewing BCAP-23

COC will ensure that:

- producers have submitted BCAP-23's for BCAP-24 by tract and year
- BCAP-24 was signed
- individuals or entities signing BCAP-24 have an interest in BCAP acreage
- BCAP-24 has at least 1 eligible signature

Note: Notify producers that they have 30 calendar days from date of notification in which to obtain all requisite signatures or BCAP-24 will **not** be approved.

- BCAP-23's not acceptable are kept on file for 1 year.

B Request for Information

After data is reported to the State Office, inform anyone who requests data or inquires about BCAP-23 that the request or inquiry must be submitted and handled according to 2-INFO.

Note: Release requested information only according to 2-INFO.--*

324-330 (Reserved)

Section 5 (Reserved)

331-350 (Reserved)

Section 6 (Reserved)

351-370 (Reserved)

Section 7 (Reserved)

371-390 (Reserved)

--Section 8 BCAP Contracts*391 Overview****A BCAP Contract Components and Conditions**

[7 CFR 1450.211](a) In order to enroll land in BCAP, the participant must enter into a contract with CCC.

(b) The 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 contract, the producer must submit an offer to participate as specified in §1450.209;

(d) The 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 contracts on behalf of CCC.

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

B BCAP-24 Terms

BCAP-24 terms include all the following:

- compliance with 6-CP HEL and WC provisions
- implementation of conservation plan, FSP, or equivalent plan
- a commitment to provide information to promote the production of eligible crops and the development of biomass conversion technology.

Notes: See paragraph 291 for obligations of BCAP participants.

See paragraph 398 for BCAP-24 terminations.--*

--392 Approving and Numbering BCAP-24's*A Requirements Before Approval**

Before approving BCAP-24, County Offices will:

- ensure that BCAP-23 and separate BCAP-24's are completed for each:
 - tract (see paragraph 312)
 - contract with different contract period lengths

Note: More than 1 single tract can be entered on BCAP-23; however, only 1 tract can be entered on BCAP-24.

- determine acres to be enrolled by completing a paid-for measurement service (paragraph 315)
- adjust acreage on BCAP-24, as appropriate according to the completed measurement service
- ensure that BCAP acres and CRP do **not** exceed available cropland on the farm tract

Note: Land enrolled under a CRP contract is not eligible to be enrolled under BCAP-24. Accordingly, the total BCAP enrolled cropland acreage and CRP enrolled acreage on a tract **cannot** exceed the total cropland in a tract.

- complete a second party review of all eligibility requirements and maximum payment rate calculations
- review the multiple county producer list with other County Offices
- determine the total annual rental rate for the acreage on BCAP-23 and all previously approved BCAP-24's
- complete CCC-770 BCAP-1 (subparagraph F), items 1 through 12B.

Note: A producer may change BCAP practices **only** if all the following conditions are met:

- original BCAP-23 was accepted
- BCAP-24 has not already been approved.--*

--392 Approving and Numbering BCAP-24's (Continued)*B Approving BCAP-24's**

Approve BCAP-24 if all the following apply:

- the eligible land is within an approved project area
- acreage determinations have been made and verified by a paid-for measurement service, if required according to paragraph 315
- BCAP-23 acres, including any DCP base acres (whether or not enrolled in DCP), plus any CRP enrolled acres, do **not** exceed the cropland acres of the farm tract
- all required signatures on BCAP-24 and all related forms and plans have been obtained
- a conservation plan is approved for BCAP-23 acreage
- the conservation plan is consistent with policies applicable to the project area and BCAP
- CCC-770 BCAP-1 (subparagraph F), items 1 through 12B are completed satisfactorily.

C COC Responsibilities

COC, or designee, will:

- sign and date each eligible BCAP-24, if requirements in this paragraph have been met
- not approve BCAP-24's for persons listed in subparagraph D
- follow conflict of interest provisions in 22-PM.--*

***--392 Approving and Numbering BCAP-24's (Continued)**

D Approval Responsibilities

STC or DAFP representative will review certain BCAP-24's before approval. The following provides required reviews and persons responsible for review and approval or disapproval.

BCAP-24's for...	MUST be reviewed by...	BEFORE approval or disapproval by...
<ul style="list-style-type: none"> • COC members • County National Institute of Food and Agriculture employees • FSA County Office employees • other county USDA employees • Conservation District board members 	DD	DD.
State Office employees	STC	STC.
STC members	DAFP	SED.
SED's	DAFP	STC.
other FSA employees	DAFP	STC.

Note: Reviews **must** be completed for any entity for which the employee, who is subject to a required review, has a substantial beneficial interest of 10 percent or more. See Exhibit 2.

Persons performing reviews will ensure that:

- all requirements have been met
- required entries on BCAP-23, BCAP-24, and conservation plan have been completed.

SED or STC, as applicable, will not approve BCAP-24's unless authorized in writing by DAFP.--*

***--392 Approving and Numbering BCAP-24's (Continued)**

E Numbering BCAP-24's

Each BCAP-24 has its own enrollment number that is assigned by FSA, which, together with the project area ID number, uniquely identifies the enrolled acreage.

The enrollment number is determined according to the following table.

WHEN...	THEN...
assigning original BCAP-24 number	<ul style="list-style-type: none"> • number BCAP-24's in the sequence COC approves BCAP-24's <p>Note: An anticipated number based on anticipated sequence may be entered before participants sign. However, if the actual number is entered after the participant signs, the participant will not be required to initial or date that single annotation of number.</p> <ul style="list-style-type: none"> • use only 1 series regardless of FY BCAP-24 is approved <p>Example: 1, 2, 3, etc., up to 8999.</p> <p>Note: Use 9000 to 9999 as temporary numbers only.</p> <ul style="list-style-type: none"> • use the original assigned number for the life of BCAP-24.
revising BCAP-24	<ul style="list-style-type: none"> • use the original assigned BCAP-24 number • add an alpha suffix beginning with "A". <p>Example: 1A, 1B, 1C, etc., up to suffix "Z". See paragraph 399.</p>

If transferring BCAP-24 to another State or County Office:

- the transferring County Office sends original BCAP-24 and keeps a copy
- the receiving County Office assigns its next sequential number.

Note: Do not assign a suffix to BCAP-24 if all land under BCAP is transferred.

F County Office Action

After requirements in subparagraphs A through C have been met, notify producer of approval. See Exhibit 30, paragraph C.--*

*--392 Approving and Numbering BCAP-24's (Continued)

G Instructions for and Example of CCC-770 BCAP-1

County Offices shall complete, sign and date the applicable signature line, and file original in the participant's BCAP folder. The following is an example CCC-770 BCAP-1.

<p>CCC-770 BCAP-1 U.S. DEPARTMENT OF AGRICULTURE (05-04-11) Commodity Credit Corporation</p> <p align="center">BIOMASS CROP ASSISTANCE PROGRAM (BCAP) CONTRACT APPROVAL CHECKLIST</p>		1. State Office Name		
		2. County Office Name		
	3. Project Area ID Number	4. Enrollment Number		
<p>For any question listed below if the answer is "NO" then "STOP" do not complete the BCAP application process. Complete all necessary corrective actions needed to update the response with either "YES", or "N/A" before continuing the BCAP process.</p>				
ACTION	Handbook or Other References	YES	NO	N/A
5. Have redelegations of authority been documented to support permitted actions taken by the CED in regard to BCAP?	1-BCAP, paragraph 32 and Exhibit 1			
6. Has a second party review of all eligibility requirements and maximum rate calculations been conducted?	1-BCAP, paragraph 392			
7. Do the BCAP cropland acres (including BCAP acres having DCP base acres) and CRP acres meet the requirement not to exceed available cropland on the farm tract?	1-BCAP, paragraphs 312 and 392			
8. Does the conservation plan, FSP, or equivalent plan contain all required elements and has it been approved by the COC or designee?	1-BCAP, paragraph 391			
9. Has a conservation plan, FSP, or equivalent plan been developed with eligible practices listed on the BCAP-24, and signed by all signatories to the BCAP-24, plan provider, NRCS/TSP, State Forester, Conservation District, and COC/Designee?	1-BCAP, paragraphs 312, 315, 323 and 394			
10. Have all required signatures been obtained on the BCAP-23, BCAP-24 and the conservation plan, FSP, or equivalent plan?	1-BCAP, paragraphs 313, 314 and 320			
11. Has NEPA, NHPA, ESA, and related acts compliance been documented on NRCS-CPA-52 or State approved equivalent form?	1-BCAP, paragraph 391			
<p><i>If all of the above have been answered "YES", the COC or designee shall approve the BCAP-24. If designee is approving, delegation of authority must be on file.</i></p>				
12A. Signature of Preparer		12B. Date (MM-DD-YYYY)		
<p>13A. I concur/do not concur the above items have been verified and updated.</p>		<input type="checkbox"/> Concur	<input type="checkbox"/> Do Not Concur	
13B. CED Signature for Spotcheck		13C. Date (MM-DD-YYYY)		
<p>14A. I concur/do not concur the above items have been verified and updated.</p>		<input type="checkbox"/> Concur	<input type="checkbox"/> Do Not Concur	
14B. DD Signature for Spotcheck		14C. Date (MM-DD-YYYY)		
<p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.</small></p>				

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393 (Reserved)

--394 Conservation Plan, FSP, or Equivalent Plan and C/S Agreement*A Overview**

[7 CFR 1450.207] Conservation plan, forest stewardship plan, or equivalent plan.

- (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, forest stewardship plan, or equivalent plan, or disapproves the conservation plan, forest stewardship plan, or equivalent 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 purposes as determined by CCC.**
- (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) Each conservation plan, forest stewardship plan, or equivalent plan, and any revision of the plan, will be subject to approval by CCC.--***

--394 Conservation Plan, FSP, or Equivalent Plan and C/S Agreement (Continued)*B Conservation Plan and C/S Agreement (FSA-848)**

According to subparagraph A, BCAP requires a conservation plan, FSP, or equivalent plan, for all BCAP payments.

The conservation plan, FSP, or equivalent plan will be developed to meet identified resource needs.

For BCAP establishment payments, the C/S Agreement is FSA-848.

See Exhibit 2 for definition of conservation plan.

C Plan/Schedule of Operations

The designated conservationist will assist producers in preparing the conservation plan using NRCS-approved electronic forms. Other approved forms, including electronic forms, may be used for BCAP-24 support documents.

D Using Existing Conservation Plans

Existing conservation plans, if applicable, may be used in preparing the conservation plan for BCAP. NRCS, FSA, and the producer shall each receive a copy of the conservation plan. All entries must be legible, and use NRCS-approved electronic forms. Plans will include:

- conservation planning map
- planning legend
- applicable job sheets referred to on an NRCS-approved electronic form.--*

--394 Conservation Plan, FSP, or Equivalent Plan and C/S Agreement (Continued)*E Required Signatures for Conservation Plan**

For BCAP, the NRCS-approved electronic forms **must** be signed by all of the following:

- BCAP producers listed on BCAP-24, section 11
- designated conservationist
- conservation district representative.

COC will have concurrence with the BCAP-24 support document for BCAP acreage. If BCAP acreage is not in a conservation district or the conservation district refuses to sign the conservation plan, the State conservationist will delegate authority to approve the conservation plan.

F Conservation Plan Support Document Requirements

An approved conservation plan includes:

- all of the eligible acres on BCAP-23
- required maintenance for weeds, insects, pests, or other undesirable species for the life of BCAP-24
- only practices requested on BCAP-24
- application rates that are consistent with practice specifications.

Note: Any changes to items in this subparagraph may void BCAP-24.--*

--395 NRCS Assembling and Filing BCAP Contract Documents*A Overview**

Many of the documents needed for BCAP are available electronically. However, a few of the required documents may not be available electronically and must be filed manually.

Examples: BCAP-23 and BCAP 24.

BCAP documents must be filed according to State FSA policy.

Note: County Offices will:

- maintain the original BCAP-23, BCAP 24, and copy of BCAP-24 Appendix
- provide NRCS or FS with copy of any documents needed for NRCS or FS case files.

BCAP documents **must** be maintained according to subparagraphs B through J.

B Standard File Folder

If a standard file folder is used, the arrangement of the contents of the first cover should be:

- conservation plan map and legend
- tree planting plan provided by the State forestry agency
- job sheets referenced from the conservation plan
- soil map
- interpretative information containing HEL designations
- BCAP-23
- erosion and predominant soil worksheets.

The contents of the second cover should be:

- NRCS-approved forms
- BCAP-24
- FSA-848
- other support data.

Note: Each document should be filed with the most recent and latest version on top or in front. Older documents will follow.--*

--395 NRCS Assembling and Filing BCAP Contract Documents (Continued)*C First Cover of 6-Part Folder**

If 6-part folders are used, the following arrangement is specified for continuity and uniformity. The arrangement of the documents for each cover from front to back should be:

- BCAP-24
- correspondence or letters to and from the producer
- location map, if used.

D Second Cover of 6-Part Folder

The following is the order for the second cover:

- NRCS-LTP-013, latest on top
- NRCS-CPA-06.

E Third Cover of 6-Part Folder

The following is the order for the third cover:

- conservation plan map and legend
- soil map
- soil interpretive information containing HEL designations.

F Fourth Cover of 6-Part Folder

The following is the order for the fourth cover:

- NRCS-LTP-012, latest on top
- NRCS-LTP-11A
- NRCS-LTP-11B.

G Fifth Cover of 6-Part Folder

The following is the order for the fifth cover:

- job sheets referenced from BCAP-24 support document
- BCAP-24
- Nation/State ranking forms.--*

--395 NRCS Assembling and Filing BCAP Contract Documents (Continued)*H Sixth Cover of 6-Part Folder**

The following is the order of the sixth cover:

- FSA-848, latest on top
- other support data.

I Assistance Notes

Appropriate documentation shall be included in the conservation assistance notes in the FOCS database. Do **not** duplicate this information on NRCS-LTP-013.

J Disposition of Completed or Terminated BCAP-24's

Record the termination or expiration date on each BCAP-24. NRCS will follow the Records Management Guide (120 GM, Part 408) for records maintenance and disposal.

396 Farm Constitution and Reconstitutions**A Determining Proper Constitution and Reconstitution**

Follow 2-CM to determine proper constitution and reconstitution of farms enrolled in BCAP.

B Processing BCAP-24 for Farms Requiring Reconstitutions

Complete approved farm reconstitutions before BCAP-24 is approved.--*

***--397 Correcting BCAP-24's**

A Making Corrections

Make corrections to BCAP-24 and BCAP data when there are errors.

B Correcting Erroneous Acre Determinations

Correct erroneous acre determinations according to this table.

Note: This subparagraph **only** applies to cases where there was no measurement service completed.

IF, after BCAP-24 is approved, it is determined that BCAP-24 includes...	THEN...
more eligible acres than originally approved	<ul style="list-style-type: none"> • correct BCAP-24 to include the additional eligible acres • do not make retroactive payments on the additional acres.
less eligible acres than originally approved	<ul style="list-style-type: none"> • correct BCAP-24 to correct the error • do not collect overpayments if it is an FSA, NRCS, or other TSP error.

C Completing Corrections

Do the following:

- revise BCAP-24 to reflect the correct acreage
- cancel BCAP-24 containing ineligible acreage
- notify BCAP-24 participants of correct acreage adjustments
- have all parties, including person making corrections, initial and date the entries.

Note: Do not use a new BCAP-24 enrollment number. See paragraph 399 for BCAP-24 revisions.--*

--398 Terminating BCAP-24's*A Terminating BCAP-24**

[7 CFR 1450.211] (g) 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 CCC, and the cost of restoring or establishing the practice outweighs the benefits received from the restoration or establishment;**
 - (5) The 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 BCAP. Further, a refund of all payments need not be required from a participant who is otherwise in full compliance with the contract when the land is purchased by or for the United States, as determined appropriate by CCC.--***

--398 Terminating BCAP-24's (Continued)*B Terminating All Land Under BCAP-24**

COC will terminate **all** land under BCAP-24 before its expiration date, if any of the following apply:

- participant loses control of or transfers **all** the land under BCAP-24 and there is no successor-in-interest
- **all** signatories to BCAP-24 voluntarily request, in writing, to terminate **all** land under BCAP-24
- participants request for termination of part of the land under BCAP-24 was disapproved and participants proceed to violate the terms and conditions of BCAP-24 on that land
- all land under BCAP-24 is transferred to EWRP, WRP, or EWP Floodplain Easement
- BCAP practice or practices failed on all enrolled land under BCAP-24 and COC determines the cost of restoring cover outweighs benefits received from restoration
- land under BCAP-24 is under lease for gas, oil, earth, or mineral rights, and the owner of these rights exercises the option to extract the gas, oil, earth, or minerals on **all** the land under BCAP-24
- BCAP-24 was approved based on erroneous eligibility determinations.

Note: Use paragraph 404 for early BCAP-24 termination.--*

*--398 Terminating BCAP-24's (Continued)

C Terminating Some Land Under BCAP-24

COC will terminate **part** of the land under BCAP-24 before BCAP-24 expiration date, if any of the following occur or are met:

- participant loses control of or transfers **part** of the land under BCAP-24 and there is no successor-in-interest
- COC could not determine that a good faith effort was made
- part of the land under BCAP-24 is transferred to EWRP, WRP, or EWP Floodplain Easement
- BCAP practice or practices failed on **some or part** of the land under BCAP-24 and COC determines the cost of restoring the cover outweighs the benefits received from restoration
- land under BCAP-24 is under lease for gas, oil, earth, or mineral rights and the owner of these rights exercises the option to extract the gas, oil, earth, or minerals on **some or part** of the land under BCAP-24
- part of the land under BCAP-24 was approved based on erroneous eligibility determinations
- **both** the following conditions are met:
 - **all** signatories to BCAP-24 request, in writing, to terminate part or some of the acreage under BCAP-24
 - the later of the following:
 - BCAP-24 has been effective for at least 2 years
 - Exception:** BCAP-24's that have been re-enrolled do **not** have to be in effect for at least 2 years.
 - the approved cover is established on the acreage or the acreage is otherwise in compliance.--*

--398 Terminating BCAP-24's (Continued)*C Terminating Some Land Under BCAP-24 (Continued)**

Requests for DAFP approval of termination of part of the land under BCAP-24 must be in writing, signed by all BCAP-24 participants, and specify the intended or anticipated use of the land terminated from BCAP. The participant's written request together with the following will be submitted to DAFP for consideration:

- COC recommendation
- STC recommendation
- map of acreage enrolled and acreage requested to be terminated
- copy of BCAP-24 and revised BCAP-24 with all item numbers completed for the acreage that will remain in BCAP.

Notes: Participants must sign the revised BCAP-24 for FSA to consider the proposed revised BCAP-24; however, FSA will take no action on the revised BCAP-24 until DAFP has rendered a decision on the proposed revised BCAP-24.

See subparagraph D for early BCAP-24 termination.

D Terminating BCAP-24

COC will do the following when terminating all or part of the land under BCAP-24:

- review written request for BCAP-24 termination or other documents submitted leading to the determination that BCAP-24 must be terminated
- document facts in COC minutes
- on BCAP-24, annotate, "Terminated for (*enter reason for termination*), Reference COC Minutes of (*enter date of COC minutes*)"

Note: Person making written notations will initial and date the annotations.

- cancel BCAP-24.

Important: Terminated BCAP-24's can only be reinstated by DAFP. Neither COC nor STC has authority to reinstate a terminated BCAP-24.--*

--398 Terminating BCAP-24's (Continued)*D Terminating BCAP-24 (Continued)**

Notify each BCAP-24 participant of all the following:

- reason for terminating BCAP-24
- that for BCAP-24 with this specific enrollment number in this project area, that they are no longer required to comply with the terms of BCAP-24
- they are ineligible for future BCAP payments for the acreage terminated from BCAP-24
- conservation compliance provisions continue to apply
- when part of BCAP-24 with a specific enrollment number in a project area is terminated, participants have 60 calendar days from the date of action that necessitated the revised BCAP-24, to obtain and enter all required participant signatures on a revised BCAP-24

Example: Part of a tract of land enrolled under BCAP-24 is sold to new owners. New owners and existing participants have 60 calendar days from the effective date of transfer of land to sign revised BCAP-24's.

- any amount that must be refunded using a single initial notification letter addressed to all BCAP-24 participants who have signed BCAP-24, including participants with zero shares.

Notes: BCAP-24 participants having greater than a zero share of BCAP-24 are jointly and severally liable for any overpayments and refunds with applicable interest, including, but not limited to:

- annual payments
- establishment payments
- liquidated damages, if applicable.

If BCAP-24 was assessed a payment reduction during BCAP-24 period, refunds will not include the amount of the reduction.

Establishment payments may be prorated after cover has been established for 5 years, if COC determines, after consulting with the conservation district and NRCS, that the established conservation practices have achieved desired conservation benefits.

Second party reviews are **required** for all refund calculations.

Provide applicable appeal rights of the decision requiring refunds and, if applicable, decisions requiring payment of liquidated damages.--*

--398 Terminating BCAP-24's (Continued)*E Requests for Waiver of Refunds**

Participants may request waivers of requests for refunds of amounts determined due; however, participants are neither entitled to a decision on a waiver request nor are they entitled to waivers. Considering waivers is discretionary by FSA.

FSA must follow subparagraph D before processing any request for waiver of refunds. FSA will not initiate any requests for waivers of refunds. Following issuance of a decision requiring refunds according to subparagraph D, participants desiring a waiver of refunds will submit a written request for waiver to COC. After receipt, COC will:

- acknowledge the request for waiver, in writing, to participants submitting the written request for waiver of refund with courtesy copies to all persons who were issued the letter requiring refunds in subparagraph D
- advise all BCAP-24 participants that FSA will consider the request for waiver before any processing of any appeal, if filed, can proceed

Note: If any participant receiving the letter referenced in subparagraph D has filed an appeal of the decision requiring refunds, FSA will refrain from taking any action on any request for waiver of refund for any participant or any other participant under BCAP-24. The case involving a single BCAP-24 cannot be acted on by more than 1 reviewing authority at the same time. Coordinate action on requests for waiver with final appeals decisions, if applicable.

- if COC determines the request for waiver has merit and can be processed according to this subparagraph, submit requests for waivers to STC.

Notes: COC and STC may waive liquidated damages according to paragraph 403.

COC will **not** submit cases that it determines do not have merit for waiver of refund consideration. In such cases, the participants may pursue administrative appeals of the amounts owed.--*

--398 Terminating BCAP-24's (Continued)*E Requests for Waiver of Refunds (Continued)**

SED:

- may consider and approve requests for waivers of refunds when the total refund and liquidated damages amount calculated according to subparagraph D (all annual payments plus establishment payments plus interest and liquidated damages) is \$20,000 or less, according to equitable relief provisions in 7-CP

Example: The total refund and liquidated damage amount calculated according to subparagraph D is \$23,000. The producer requested a waiver of \$20,000. Because the total amount of refunds and liquidated damages, before any relief or reduction are contemplated exceeds \$20,000, SED must submit the request for waiver or relief to DAFP, if SED believes the request has merit.

Note: Documentation must be maintained if any waiver or relief is granted.

- will document requests for waiver or refunds upon receipt
- will submit cases for consideration by DAFP if SED determines case submitted to SED has merit and when the total amount at issue, before any relief or reduction is applied, exceeds \$20,000
- will include in any case submitted for DAFP consideration, the following:
 - a copy of the participant's written request for relief
 - any COC or SED recommendations about the relief request
 - a copy of COC and STC minutes, as applicable
 - a copy of all applicable forms from the BCAP case file including BCAP-23, BCAP-24, aerial photocopies, conservation plans, etc.
 - narrative of the case and chronology.--*

--398 Terminating BCAP-24's (Continued)*F Refunds and Liquidated Damages Not Required**

Refunds of BCAP-24 payments and payment of liquidated damages are not required of:

- operators, when the administrator or heirs of an owner's estate do not become successor-in-interest to BCAP-24
- the owner's estate, if the either the estate or the heirs to the estate choose not to succeed to BCAP-24
- heirs, if a deceased person has no estate and heirs choose not to succeed the deceased heir
- anyone who is not a signatory to BCAP-24
- participants with a share not greater than zero on BCAP-24
- participants, when both the following apply:
 - an operator's estate wants to succeed BCAP-24
 - the landowner is not interested in signing or chooses not to sign a revised BCAP-24 with the operator's estate
- participants, when BCAP-24 is being terminated to enroll acreage in a State conservation program, EWRP, WRP, or EWP Floodplain Easement
- participants, when BCAP-24 was approved based on an erroneous ownership or operatorship determination provided that the erroneous determination was not the result of misrepresentation, scheme, or device by any of the participants
- participants, when BCAP-24 was approved based on an erroneous land eligibility decision according to paragraph 254
- participants, when there is a failure to establish or maintain cover and the failure is not the result of error on the part of the participant
- participants, when BCAP-24 is being terminated under early termination provisions.--*

--398 Terminating BCAP-24's (Continued)*G BCAP-24 Terminated Because of Foreclosure**

BCAP participants will not be required to refund payments or pay liquidated damages when BCAP-24 is terminated because of loss of control over land because of foreclosure.

Note: Documentation must be filed showing that foreclosure occurred.

If the participant regains control of foreclosed land, BCAP-24 will be in effect on the date of foreclosure.

H Land Acquired Under Eminent Domain

BCAP land acquired under threat of condemnation or by eminent domain for public use is considered an involuntary loss of land by the participant.

In cases where condemnation or eminent domain acquisition can be documented, COC will:

- terminate the BCAP acres acquired through condemnation or eminent domain

Exception: BCAP acreage may be continued under BCAP-24 if there is minimal impact on the affected acreage and the vegetative cover is maintained.

- waive the refund of BCAP payments
- not assess liquidated damages
- in the case of annual payments, prorate to eligible participants annual payments earned for the period of time that elapsed before BCAP acreage was acquired by eminent domain.--*

***--399 Revising BCAP-24's**

A When to Revise BCAP-24

Revise BCAP-24 **only** for the following reasons:

- change of participants
- change in producer's shares
- part of the land enrolled under BCAP-24 is terminated according to paragraph 400
- acreage enrolled under BCAP-24 is no longer considered eligible land
- land or acreage enrolled under BCAP-24 is either sold or conveyed to another.

B Notification of Revisions

After COC approves request to revise BCAP-24, COC will notify all BCAP participants, in writing, that the conservation plan, FSP, or equivalent plan must be revised to reflect the change requested. Participants must consult with NRCS or TSP to revise the plan. Notify participant, in writing, after COC receives the revised conservation plan, FSP, or equivalent plan, that the participant has 60 calendar days to sign the revised BCAP-24.

C Revising BCAP-24

Revise BCAP-24 according to this table.

Step	Action
1	Assign an alpha suffix to the BCAP-24 number.
2	Transfer original BCAP-24 data to revised BCAP-24, as follows: <ul style="list-style-type: none"> • change items affected by revision • leave rental and expiration date the same • have participants sign revised BCAP-24.
3	ENTER, " VOID " on original BCAP-24.
4	Provide copies of approved revised BCAP-24 and other BCAP documents, the same as FSA did for original participants on original BCAP-24, according to subparagraph 314 B and Exhibit 30, paragraph C.

--*

***--399 Revising BCAP-24's (Continued)**

D Revising BCAP-24 if Plan is Modified

If BCAP-24 is revised for reasons other than modifying the plan (such as adding new participants or successors-in-interest), consult with NRCS or TSP about the need for modification of the conservation plan, FSP, or equivalent plan.

Do **not** revise BCAP-24 for changes that only impact the conservation plan.

The participants and NRCS or TSP are responsible for changes to the approved conservation plan.

Final approval of changes in establishment payments are with FSA.--*

--400 Revising BCAP-24 Because of Loss of Control of Enrolled Land*A General Policy****[7 CFR 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, 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) Establishment 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).**

[7 CFR 1450.215] Transfer of land. (Continued)

- (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 CCC determines to be appropriate, such contract will be 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 CCC. The provisions of §1450.211(g) will apply.--***

***--400 Revising BCAP-24 Because of Loss of Control of Enrolled Land (Continued)**

A General Policy (Continued)

[7 CFR 1450.215] Transfer of land. (Continued)

(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 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 CCC determines that such allowance is in the public interest and:

- (1) The property is maintained according to 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.**

BCAP-24 may need to be revised because of loss of control of land under BCAP-24.

See paragraph 399 for revisions of BCAP-24 where either part or all of the acreage enrolled under BCAP-24 will continue to be enrolled following transfer of land under a revised BCAP-24.

See paragraph 398 for terminations of acreage from BCAP-24.

B If Owner Loses Control of Enrolled BCAP Land

Follow this table if owner loses control of enrolled BCAP land.

IF loss of control occurs...	THEN...
on a tract of land on which all BCAP-24 acres are located	revise BCAP-24 and the approved conservation plan according to paragraph 399.
on part of BCAP-24 acreage enrolled on BCAP-24	<ul style="list-style-type: none"> • continue BCAP-24 on the acreage remaining under the enrolled participant's or participants' control under a revised BCAP-24 according to paragraph 399 • offer the persons acquiring control of the enrolled acreage the opportunity to succeed to BCAP-24.
and BCAP-24 is not continued on any of the acreage	terminate BCAP-24 according to paragraph 398.

--*

--400 Revising BCAP-24 Because of Loss of Control of Enrolled Land (Continued)*C Continuing BCAP-24 on Some of Enrolled Acres**

If enrolled land is subsequently sold to a new owner and BCAP-24 will be continued on only some of the enrolled acres, revise BCAP-24 to:

- **include** acreage being continued, according to this paragraph and paragraph 399
- **terminate and exclude** acreage not being continued.

Note: See paragraph 398 for terminations.

D Voluntary Withdrawal by Operator or Tenant From BCAP-24

BCAP-24 enrolled acreage on which an operator or tenant voluntarily relinquishes the right to BCAP-24 benefits may be continued by the owner or other eligible person or legal entity under the successor-in-interest provisions.

The person or legal entity acquiring an interest in BCAP-24 and who elects to succeed:

- may share in payment according to the division of shares on BCAP-24
- will be responsible for complying with BCAP-24 provisions
- will be liable for noncompliance after becoming a party to BCAP-24.

A person who is a participant on BCAP-24 who no longer wants to participate and be responsible for compliance with BCAP-24 **must** submit a written request to COC to be removed from BCAP-24.

COC will:

- document the reason why the participant wants to be removed
- verify that the written request for withdrawal is legitimately from the participant
- give persons who may have a legitimate interest in the enrolled acreage the option of continuing participation as a successor if the person who withdrew:
 - was a tenant who voluntarily relinquished their right to the acreage and the BCAP-24 benefits
 - filed for bankruptcy
 - died and the person's estate failed to succeed within 60 calendar days.--*

***--401 Other Revisions**

A Revisions to Substitute Fields

Fields designated under BCAP-24 **cannot** be substituted because the original field is under long-term BCAP-24.

B Removal of BCAP Acreage Because of Natural Conditions

Apply this subparagraph to BCAP-24 when acreage no longer exists because of natural conditions.

Example: The original BCAP-24 contained 50 acres along a river. The river eroded 3 acres of the land downriver; therefore, only 47 acres remain in the field.

County Offices will take the following actions.

Step	Action
1	Revise BCAP-24 to remove acreage that has been physically removed from the property after COC determines that the acreage is no longer eligible for BCAP because it no longer exists.
2	See 3-CM for procedure on adjusting farm, tract, and cropland acreage.

C Revision Authorized by DAFP

Revisions, other than in this section, require prior DAFP approval.--*

--402 Assessing Liquidated Damages*A Determining Liquidated Damages Amount**

BCAP-24 Appendix specifies:

It is mutually agreed that in the event a condition of the BCAP enrollment or BCAP payment is breached by the participant, the CCC will suffer substantial damages which may not be possible to quantify with certainty. Therefore, in addition to the refund of payments received plus interest due, prescribed in this application, the participant agrees to pay an amount equal to the product obtained by multiplying: (1) 25 percent of the rental payment rate per acre on Form BCAP-24 by, (2) the number of acres that are the subject of the BCAP enrollment. Such amount shall be due as liquidated damages in addition to such other damages or amounts as may be due, and not as a penalty.

To determine the amount when assessing liquidated damages, multiply 25 percent of the rental payment rate per acre times either of the following:

- number of acres being terminated
- number of acres enrolled under BCAP-24, if all those acres are terminated.

B When to Assess Liquidated Damages

Assess liquidated damages if BCAP-24 entered into by participants is either terminated or must have enrolled acreage terminated for any of the following reasons:

- participants have sold or voluntarily lost or relinquished control of the enrolled acreage and there is not a valid succession-in-interest approved for continued BCAP participation under a revised BCAP-24 for those acres
- participants fail to demonstrate a good faith effort to comply with provisions of their BCAP-24 with respect to the acreage.

Do **not** assess liquidated damages if subparagraphs 398 F, G, or H apply.--*

--403 Waiving Assessed Liquidated Damages*A Request for Waiver**

Before considering whether to recommend or process a request for waiver of liquidated damages, liquidated damages will be assessed and computed according to paragraph 402. Waivers are not applicable in instances where FSA has determined liquidated damage assessment is inapplicable.

If liquidated damages are assessed, determinations to waive liquidated damages will be on a case-by-case basis. When contemplating waivers, COC and STC will consider the following:

- circumstances leading up to the need for termination of the acreage
- obligations and agreement of the participants when they voluntarily elected to enroll the acreage in BCAP, thereby causing others, including CCC, to enter into the agreement
- future use of the terminated acreage and whether terminated acreage will be restored to production
- the impact termination of BCAP-24 or acreage has on the participant and/or the project area.

Note: Liquidated damages will not be waived when COC or STC determines that there was not a good faith effort to comply with the terms and conditions of BCAP-24.

COC may do any, but **not** more than 1, of the following:

- disapprove a request for waiver of liquidated damages, if made by any of the BCAP-24 participants, or determine waiver of liquidated damages is inappropriate because of some other circumstances, such as a violation of BCAP-24 provisions

Note: Follow 1-APP for issuing decisions disapproving requests for waivers of liquidated damages.

- waive 50 percent of the assessed liquidated damages
- recommend a waiver of 100 percent of liquidated damages to STC according to subparagraph B.

Note: If COC determines that a case warrants full waiver of liquidated damages, COC will make that recommendation to STC and wait for STC action before communicating the result of STC's decision on the request for full waiver to BCAP-24 participants.--*

--403 Waiving Assessed Liquidated Damages (Continued)*A Request for Waiver (Continued)**

STC has authority to approve requests for full waiver of liquidated damages. On appeal, STC also has authority to reverse or modify COC decision to only waive 50 percent of liquidated damages.

Note: STC will follow 1-APP for decisions disapproving waivers of liquidated damages or in reversing, on appeal, COC decisions to grant 50 percent waivers of liquidated damages.

B Submitting Waiver Requests

If COC determines a 100 percent waiver of liquidated damages is appropriate according to subparagraph A, COC will include the following in its recommendation to STC:

- copy of determination or documentation showing that liquidated damages have been assessed and narrative explaining the circumstances leading up to liquidated damage assessment
- copy of participant's written requests for waiver of liquidated damages, if the request was made by the participant
- COC findings
- specific COC recommendation and basis for that recommendation
- copies of all program documents and County Office records related to the terminated BCAP-24 crop acreage and assessment of liquidated damages.--*

***--404 Early BCAP-24 Termination**

A Policy for Early BCAP-24 Termination Requests

[7 CFR 1450.205] Duration of contracts. (a) Contracts will be for a term of up to:

(1) 5 years for annual and nonwoody perennial crops; and

(2) 15 years for woody perennial crops.

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

B Participant Request Requirements

BCAP participants may request early termination of any part or all of the eligible enrolled acreage under BCAP-24, in writing, by:

- specifically identifying the enrolled BCAP acreage on which early termination is being sought
- stating whether a revised BCAP-23 and BCAP-24 will be sought for enrolled acreage that is not the subject of an early termination request
- acknowledging that final annual payments for terminated acres may be prorated based on the effective date of termination.--*

--405 BCAP Land in State or Federal Receivership*A Overview of Policy**

BCAP-24's on land subsequently placed in State or Federal receivership, subject to the regional attorney's concurrence:

- do not have to be terminated
- may continue to earn payments if BCAP-24 terms and conditions are satisfied.

B Court-Appointed Receiver

A receiver is appointed by a court to manage the assets of a landowner. However, the receiver:

- shall **not** be a successor to BCAP-24
- is **not** required to sign BCAP-24.

Note: In this instance, the court-appointed receiver “stands in the shoes” of BCAP-24 participant.

Contacts about BCAP-24 should be made with the receiver.

C Continuing BCAP-24 on Land in State or Federal Receivership

Do not revise BCAP-24 until the land is sold to an eligible participant who agrees to continue BCAP-24.

If land is subsequently sold and BCAP-24 will:

- be continued, follow paragraph 399 for revisions
- **not** be continued, follow paragraph 398 for terminations.

D Issuing BCAP Payments for Land in State or Federal Receivership

Payments will, subject to the regional attorney's concurrence, be:

- issued to the eligible BCAP participant, using the participant's TIN
- sent to the State or Federal receiver.

Note: Do **not** issue payments to the receiver.--*

--406 BCAP-24 Tenant and Sharecropper Provisions and Participants in Bankruptcy*A Policy About BCAP Division of Payments and Participant Bankruptcy**

[7 CFR 1450.7] Division of payments and provisions about tenants and sharecroppers.

- (a) **BCAP payments 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 CCC; 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.**

Because of the complexity of the U.S. Bankruptcy Code provisions:

- there is no standard BCAP procedure about persons who have filed for protection under the bankruptcy law
- COC's and STC's **will, in all cases**, determine BCAP eligibility involving bankruptcy cases based on advice of the regional attorney.

If BCAP-24 is terminated because of bankruptcy, refunds and liquidated damages are not required from signatories on BCAP-24.--*

***--406 BCAP-24 Tenant and Sharecropper Provisions and Participants in Bankruptcy
(Continued)**

B BCAP-24 Considered Executory Contract

BCAP-24's are executory contracts.

BCAP-24's approved before filing a petition for bankruptcy must be affirmed by the trustee or debtor-in-possession:

- on order of the court
- after notice and hearing as determined by the regional attorney.

Note: No payments will be issued under BCAP-24's, after filing the petition for bankruptcy, until there is a court order agreed to by the regional attorney permitting assumption and an actual assumption.

C Chapter 7

Except as provided in subparagraph D, when BCAP-24 participant files Chapter 7 bankruptcy petition, the trustee must obtain approval from the Bankruptcy Court, within 60 calendar days of filing the bankruptcy petition, to assume BCAP-24. Otherwise, BCAP-24 will be terminated according to paragraph 398. Refunds and liquidated damages are not required.

D Exception to Chapter 7

If the trustee does not affirm BCAP-24 within 60 calendar days of filing the bankruptcy petition, BCAP-24 may be reaffirmed with the debtor if:

- the parties elect to continue BCAP-24 with FSA, waiving any breach deemed to have occurred by the lack of affirmation by the trustee
- the debtor shows the property has been abandoned by the trustee, leaving the debtor in a position to continue to comply with the terms and conditions for the full term of BCAP-24
- agreeing to the reaffirmation will not compromise FSA's or CCC's interest
- the regional attorney agrees to defend the reaffirmation.

Note: A formal court approved reaffirmation is generally not required.--*

***--406 BCAP-24 Tenant and Sharecropper Provisions and Participants in Bankruptcy
(Continued)**

E Chapters 11 and 13

Producers must affirm or reject BCAP-24's under Chapters 11 and 13. However, there is no requirement to assume BCAP-24 within 60 calendar days. The reorganization plan must include an affirmation or rejection of BCAP-24 when filed with the Bankruptcy Court.

Note: If the reorganization plan has not been filed, request guidance from the regional attorney about when BCAP-24 would need to be assumed by the debtor-in-possession, his or her estate, or his or her trustee.

407 BCAP-24 Modifications for Violations

A Policy

[7 CFR 1450.206] (b) Payments may cease and producers may be subject to contract termination for failure to establish 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 CCC:

- (1) The failure to plant or establish such cover was due to a natural disaster such as excessive rainfall, flooding, or drought; and**
- (2) The participant establishes the approved cover as soon as practicable after the wet or drought conditions that prevented the establishment of such cover subside.**

B Modification and Payment Reductions

BCAP-24's are subject to modification and payment reductions if any BCAP-24 terms are violated. Participants that choose to voluntarily withdraw from BCAP-24 before the duration of BCAP-24 has ended will be subject to early BCAP-24 termination refunds and liquidated damages according to BCAP-24 Appendix and paragraph 402.

Note: In cases where a participant cannot fully implement a conservation plan for reasons beyond the participant's control, County Office may approve a modified plan if provided and if CCC agrees to the modified plan's terms. However, BCAP-24 will not be terminated for failure to establish an approved cover on the land if, as determined by DAFP, if both of the following are true:

- failure to plant or establish such cover was because of excessive rainfall, flooding, or drought
- land on which the participant was unable to plant or establish cover is planted or established to cover as soon as practicable after the wet or drought conditions that prevented the planting or establishment subside, as determined by FSA.--*

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) Certification		30, Ex. 4
AD-1047	Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions		71, Ex. 20
BCAP-1	Biomass Conversion Facility Overview		71, 73, 250, Ex. 20
BCAP-10	Biomass Crop assistance program (BCAP) – Matching Payment Pre-Delivery Application	125	30, 33, 123, 124, 126
BCAP-11	Biomass Crop Assistance Program (BCAP) – Request for Matching Payment	126	30, 123
BCAP-20	Biomass Crop Assistance Program (BCAP) – Project Area Proposal Submission		250, Ex. 20
BCAP-21	Biomass Crop Assistance Program (BCAP) Project Area Proposal Estimates		250, Ex. 20
BCAP-22	Biomass Crop Assistance Program (BCAP) Project Area Environmental Screening Worksheet		250-252, Ex. 20
BCAP-23	Biomass Crop Assistance Program (BCAP) Worksheet (Establishment and Annual Payments for Producers)	313	30, Part 4, Ex. 30
BCAP-24	Biomass Crop Assistance Program (BCAP) Application (Establishment and Annual Payments)	314	5, 30, 33, 123, Part 4, Ex. 30
BCAP-24 Appendix	Appendix to Form BCAP-24, Biomass Crop Assistance Program (BCAP) Application (Establishment and Annual Payments) available at http://forms.sc.egov.usda.gov/eForms/		291, 312, 315, 318, 319, 395, 402, 407

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
CCC-770 BCAP-1	Biomass Crop Assistance Program (BCAP) Contract Approval Checklist	392	
CCC-901	Members Information 2009 and Subsequent Years		30
FSA-848	Cost-Share Request		394, 395
FSA-848B	Cost-Share Performance Certification and Payment		30
NRCS-LTP-013	Status Review		395

Abbreviations Not Listed in 1-CM

This table lists approved abbreviations not listed in 1-CM.

Approved Abbreviation	Term	Reference
BCF	biomass conversion facility	Text, Ex. 2, 4, 11, 20
CHST	collection, harvest, storage, and transportation	1, 124- 126, 255, Ex. 4
EMO	eligible material owner	Text, Ex. 2
FOCS	Field Office Computing System	395
FSP	Forest Stewardship Plan	5, 125, 254, 312, 391, 394, 399, Ex. 2
LOI	letter of intent	71, 125, 126, 229
NIPF	nonindustrial private forest land	1, 249, 253-255, 291, 312, 313, 318, Ex. 2, 20
NOFA	notice of funding availability	70, 124
PEA	Programmatic Environmental Assessment	251
PEIS	programmatic environmental impact statement	251
QBCF	qualified biomass conversion facility	Text, Ex. 2
ROD	Record of Decision	251
ROI	return on investment	Ex. 20
TSP	technical service provider	312, 313, 315, 397, 399, Ex. 2, 30

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Redelegations of Authority

This table lists redelegations of authority in this handbook.

Redelegation	Reference
SED may redelegate all responsibilities listed in paragraph 30.	30
COC may redelegate authority according to paragraph 32.	32
Note: Routine cases include approval of successor-in-interest cases.	

Definitions of Terms Used in This Handbook (Continued)**Related-Party Transaction**

Related party transaction is a transaction between 2 or more ready, willing, and able organizations, trades, or business, whether or not incorporated, whether or not organized in the U.S., and whether or not affiliated, substantially owned or controlled directly or indirectly by the same interests, as determined by DAFP.

Renewable Biomass

Renewable biomass is:

- materials, pre-commercial thinnings, or invasive species from National Forest System land and 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
 - are harvested according to applicable law and land management plans and the requirements for old-growth maintenance, restoration, and management direction of 16 U.S.C. 6512 (specifically, sections 102(e)(2), (3), and (4) of the Healthy Forests Restoration Act of 2003 and large-tree retention provisions 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 U.S. or subject to a restriction against alienation imposed by the U.S., including:
 - renewable plant material, including:
 - feed grains
 - other agricultural commodities
 - other plants and trees
 - algae
 - waste material, including:
 - crop residue
 - other vegetative waste material
 - animal waste and byproducts, including fats, oils, greases, and manure
 - food waste and yard waste.

Definitions of Terms Used in This Handbook (Continued)

Settlement Sheet

A settlement sheet is a written record of the delivery and sale of eligible material biomass.

For BCAP matching payment purposes, a settlement sheet must contain the following information:

- name of QBCF (buyer) and qualified facility ID number
- signature and date of BCF authorized representative
- name of EMO (seller)
- for every load delivered all of the following must be listed:
 - scale ticket number
 - date of actual delivery
 - actual tonnage delivered (green ton)
 - total dry weight tonnage equivalent (dry ton)
 - price per dry ton paid
 - type of eligible material biomass delivered.

SDA Farmer or Rancher

SDA farmer or rancher is, unless other classes of persons are approved by CCC in writing, a farmer or rancher who is a member of a group whose members have been subject to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. Groups include:

- American Indians or Alaskan Natives
- Asians or Asian Americans
- Blacks or African Americans
- Hispanics
- Native Hawaiians or other Pacific Islanders.

State

State is any State agencies or departments and any political subdivision thereof.

*--Substantial Beneficial Interest

Substantial beneficial interest is an ownership interest of 10 percent or more in an entity.

Note: In determining whether this interest equals at least 10 percent, all interests in the entity that are owned by an individual or entity, directly or indirectly, will be taken into consideration.--*

Definitions of Terms Used in This Handbook (Continued)**Technical Assistance**

Technical assistance is 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 eligible 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.

***--Technical Service Provider (TSP)**

TSP is an individual certified to provide technical assistance on behalf of USDA. Technical assistance includes conservation planning and design, layout, installation, and checkout of approved conservation practices.--*

Tribal Government

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 according to 43 U.S.C. 1601-1629h (the Alaska Native Claims Settlement Act), that is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians.

Violation

Violation is 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

Yard waste is any renewable biomass generated from municipal or residential land, such as urban forestry materials, construction or demolition materials, trimmings from grasses and trees, or biomass removed because of invasive species or weather-related disaster, that may be separated from and has low potential (such as contamination with plastics, metals, chemicals, or other toxic compounds that cannot be removed) for the generation of toxic byproducts resulting from conversion, and that otherwise cannot be recycled for other purposes (such as post-consumer waste paper).

BCAP Filing Codes

Listed below are the subject file codes for BCAP files.

Disposition: Except as noted, destroy all files under this subject when they are 5 years old.

Color Code: The color code for this subject is yellow.

<p>Biomass Crop Assistance Program Files. This subject covers assistance to producers to:</p> <ul style="list-style-type: none"> • support the establishment and production of eligible crops for conversion to bioenergy in selected project areas and • assist agricultural and forest land owners and operators with CHST of eligible material to BCF. 			
Subject		Type of Material To Be Filed	Retention
BCAP	Biomass Crop Assistance Program	General material about BCAP too broad to be filed under 1 of the more specific subjects in this exhibit.	Destroy these files when 5 years old.
BCAP 1	Program Development	Correspondence about the development of the program, including objectives, funding allocations, cost-share limitations, and approved practices.	
BCAP 2	Reports and Statistics	Reports included under this subject that cannot be filed under 1 of the more specific subjects in this exhibit. File voluminous printouts in binders on open shelves.	
BCAP 3	Interagency Cooperation	Correspondence about cooperation between the County Office and other Federal and State agencies. This includes memorandums of understanding.	
BCAP 4	Qualified Biomass Conversion Facilities	Individual folders containing all information regarding qualified biomass conversion facilities.	Destroy these files 5 years after the expiration of the *--project area or BCF is no longer qualified.--*
BCAP 5	Project Areas	Individual folders about project area proposals, approvals, geographic delineation, and other information.	Destroy these files 5 years after the expiration of the project area.

BCAP Filing Codes (Continued)

Subject		Type of Material To Be Filed	Retention
BCAP 6	Participant Folders	<p>Individual folders containing all correspondence about the producer's participation in BCAP including:</p> <ul style="list-style-type: none"> • matching payments • establishment and annual payments. <p>Note: Maintain original copy of forms in the custody files. Maintain AD-1026's with the current farm record.</p> <p>This includes folders for disapproved or canceled contracts.</p>	Destroy these files the later of 5 years after the matching paying was paid or 5 years after the expiration of BCAP-24.
BCAP 7	Spot Checks	Spot checks, responses, and reports.	
BCAP 8	Appeals	Appeals by individual producers of the administrative criteria used in developing technical determinations.	

Complete Project Proposal Outline (Continued)

H Section 6 - Cost Analysis

Project proposals **must** include a thorough discussion of project costs that addresses the following:

- total estimated project costs, including, annual payments, establishment payments, matching payments, BCF infrastructure investments, and community infrastructure investments
- itemization of costs to be funded from non-Federal revenues, including a discussion of the status of these funds, including local and State Government revenues
- thorough justification for any incentive payments that producers might receive in addition to *--their weighted average SRR's.--*

I Section 7 - Monitoring Project Area

Project proposals **must** include a proposed monitoring and evaluation plan that can be used to measure the success of the project. The proposed monitoring plan for the project area is to include the following:

- a description of the data to be collected and methods to be used to carry out the monitoring plan
- delineation of responsibilities for carrying out the monitoring plan
- provision of annual reports to describe monitoring results
- provision for project modification if objectives are not being met.

J Section 8 - Public Outreach and Support

Project proposals **must** provide a discussion of the nature of public support, especially from producers. This **must** include a program for public outreach over the duration of the project.

Complete Project Proposal Outline (Continued)

K Section 9 - Feasibility Study(ies)

The project sponsor **must** include a feasibility study on behalf of BCF(s) that submitted a commitment letter.

The biomass conversion feasibility study must be conducted by an independent qualified consultant, which has no financial interest in BCF, and demonstrates that the renewable biomass system of BCF is feasible, taking into account the economic, technical, and environmental aspects of the system.

The feasibility study **must** include the following specified components:

- an executive summary, including resume of the consultant, and an introduction/project overview (brief general overview of project location, size, etc.)
- an economic feasibility determination, including information:
 - about the project site
 - on the availability of trained or trainable labor
 - on the availability of infrastructure and transportation to the site
- a technical feasibility determination, including a report that:
 - is based upon verifiable data and contains sufficient information and analysis so that a determination may be made on the technical feasibility of achieving the levels of energy production that are projected in the statements
 - identifies and estimates project operation and development costs and specifies the level of accuracy of these estimates and the assumptions on which these estimates have been based
- a financial feasibility determination that discusses the following:
 - the reliability of the financial projections and assumptions on which the project is based including all sources of project capital, both private and public, including Federal funds
 - projected balance sheets and costs associated with project operations
 - cash flow projections for 3 years
 - the adequacy of raw materials and supplies

Example Notifications of BCAP-23 and BCAP-24 Status

A Example Notice of Unacceptable BCAP-23

The following is an **example** of a notice of unacceptable BCAP-23. County Offices will adapt this notification to fit the situation according to 1-APP. County Offices will issue the notice on County Office stationary.

<p style="text-align: center;">Notice of Unacceptable Offer Under the Biomass Crop Assistance Program (BCAP)</p> <p>Date: _____</p> <p>Dear <i>(Enter name of person on BCAP-23, Item 6A)</i>:</p> <p>Thank you for your offer to place land in the Biomass Crop Assistance Program (BCAP). Your offer to participate in BCAP is not acceptable because <i>(enter all the reasons why the BCAP-23 is unacceptable based on the information available as of the date of the BCAP-23)</i>.</p> <p>If you believe that we have not properly considered facts in arriving at this decision, you may <i>(insert applicable appeal and review options and mandatory language for adverse decision letters according to 1-APP)</i>.</p> <p>We appreciate your interest in BCAP and hope you consider making offers again for this program.</p> <p>Sincerely,</p> <p>_____ <i>(enter name of CED)</i> County Executive Director</p> <p>Enclosure</p>

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Example Notifications of BCAP-23 and BCAP-24 Status (Continued)

B Example Notice of Acceptable BCAP-23

The following is an example of a letter advising a participant of an acceptable BCAP-23.

Note: The producer is **not** required to respond or notify the County Office in writing; however, the County Office will document the producer's response, in writing, in the BCAP folder. See paragraph 261.

**Notice of Acceptable Offer
Under the Biomass Crop Assistance Program (BCAP)**

Date: _____

Dear *(enter name of participant on BCAP-23, item 6A)*:

This notice is to inform you that your offer on farm number *(enter farm number)* and *(enter tract number)*, has been determined acceptable.

The Natural Resources Conservation Service (NRCS) or Technical Service Provider (TSP) must develop a plan, approved by the conservation district, and signed by all signatories on the BCAP contract offer to participate in BCAP. So that we may continue to process your offer to participate in BCAP, you are advised to continue to work with NRCS or TSP to obtain the required plan on the acreage which is subject to the offer. Additionally, if you are interested in wanting your offer approved, you are required to request a paid for measurement service of the acreage being offered for placement in BCAP. Your offer cannot be approved by the county committee without an approved conservation plan and acreage affirmed by either measurement service or FSA official acres.

You have 30 calendar days from the date of this letter to notify this office of whether or not you want your offer approved to participate in BCAP so that NRCS or TSP may begin plan development.

If you have any questions regarding this notice, please contact the *(enter name of County Office)* for more information.

Sincerely,

(enter name of CED)
County Executive Director

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Example Notifications of BCAP-23 and BCAP-24 Status (Continued)

C Notice of BCAP-24 Approval

The following is an example of a notice of BCAP-24 approval.

Notice of BCAP-24 Approval

Date: _____

Dear *(enter names of each participant shown on BCAP-24, item 11)*:

Your offer to place land in the Biomass Crop Assistance Program (BCAP) has been approved by the *(enter name)* County Committee.

Enclosed are your signed copies of the BCAP-24 and attachments. The effective date of this BCAP-24 is *(enter date from BCAP-24, item 12)*. The enrollment period is as shown in items 6A and 6B of BCAP-24.

The BCAP Contract is comprised of the terms and conditions for participation in BCAP as reflected in regulations at 7 CFR Part 1450 and in the BCAP-24 Appendix, the conservation plan, forest stewardship plan, or equivalent plan, and any other materials or agreements that were determined necessary that you agreed to as a condition of approval.

If you have any questions regarding this notice, please contact the *(enter name of County Office)* for more information.

Sincerely,

(enter name of CED)
County Executive Director

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