

For: State and County Offices

Biomass Crop Assistance Program (BCAP) Operations Under a Final Rule

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

BCAP was authorized by Section 9011 of the Farm Security and Rural Investment Act of 2002 as amended by the Food, Conservation, and Energy Act of 2008. The purposes of the program are to:

- support the establishment and production of eligible crops for the conversion to bioenergy
- assist agricultural and forest landowners and operators with collection, harvest, storage, and transportation (CHST) of eligible material for use in biomass conversion facilities (BCF's).

On May 5, 2009, President Barack Obama issued a Presidential directive addressing a variety of advanced biofuel priorities including the implementation of matching payments for CHST of eligible materials for biomass conversion. On June 11, 2009, CCC published a Notice of Funds Availability (NOFA) to implement the matching payments component of BCAP. The NOFA was terminated on February 3, 2010, and, on February 8, 2010, CCC published a proposed rule for BCAP.

The final rule was published in the Federal Register on October 27, 2010, and implements the full BCAP program which reflects over 24,000 comments received on the proposed rule as well as the comments received and analysis conducted as part of the BCAP environmental impact statement.

B Purpose

This notice provides:

- general information about BCAP as implemented by the final rule
- FSA's short- and long-term approach to implementing BCAP.

Disposal Date	Distribution
July 1, 2011	State Offices; State Offices relay to County Offices

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2 Establishment and Annual Payments

A Project Areas

BCAP project areas are authorized to establish a distinct geographic region in which participants can enroll land into BCAP contracts and produce eligible crops.

Project areas are proposed by a project sponsor which may be either BCF or a group of producers. Project area proposals will be submitted to the applicable State Office for recommendation to the National Office. Project areas will be selected by DAFP.

Project areas will include all of the following:

- geographic boundary describing the area where land can be enrolled
- BCF to accept delivery of biomass feedstocks for conversion to heat, power, biobased products, or advanced biofuels
- a list of eligible crops.

Note: A forthcoming directive will provide further guidance on submitting project area proposals.

B Contracts

After project proposals have been approved, producers may offer agricultural land and non-industrial private forest land (NIPF) for enrollment in BCAP contracts. Generally, BCAP contract participants may be eligible for:

- establishment payments of up to 75 percent of the cost of establishment for perennial crops

Note: Establishment payments are not available for establishment of annual crops.

- annual payments:
 - of up to 5 years for eligible annual and non-woody perennial renewable biomass crops
 - of up to 15 years for eligible woody perennial renewable biomass crops
 - with rental rates based on:
 - CRP soil rental and county average rental rates for cropland
 - CRP marginal pastureland rates for agricultural land that is not cropland
 - average county rental rate and soil productivity factor for NIPF.

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2 Establishment and Annual Payments (Continued)

B Contracts (Continued)

As a condition of BCAP contracts, participants must agree to:

- produce an eligible crop of renewable biomass
- implement a conservation, forest stewardship, or equivalent plan.

Note: This is in addition to any required conservation plan for HEL/WC.

C Implementation

Producers cannot make offers to enroll land in BCAP contracts until CCC has approved project areas. A forthcoming directive will provide guidance for preparing and submitting project area proposals. Policy and procedure for making offers and administering contracts will be provided before approval of project areas.

D Preparation

In preparation for implementing the project area component of BCAP, State Offices are strongly encouraged to coordinate with appropriate State forestry officials to determine applicable equivalent plans for BCAP contracts.

3 Matching Payments

A Overview

The matching payment component of BCAP provides funding for eligible material owners (EMO) to receive matching payments for certain eligible material sold to qualified BCF's for conversion to heat, power, biobased products, or advanced biofuel.

Matching payments authorized under the final rule are similar to the CHST payments made under NOFA in that all of the following apply:

- EMO must be an owner or operator of agricultural land or NIPF
- matching payments will be made at the rate of \$1 for each \$1 per dry ton paid by the BCF
- payments to EMO will be limited to a 2 year duration for the life of the program.

The BCAP final rule makes significant changes from the CHST payments made under NOFA which include all of the following:

- eligible material must be harvested or collected directly from the land by EMO according to a conservation, forest stewardship, or equivalent plan

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3 Matching Payments (Continued)

A Overview (Continued)

- eligibility for matching payments for woody biomass harvested or collected outside of project area contracts is limited to eligible material resulting from preventative treatments to address fire fuel load reduction, insect or disease outbreaks, or ecosystem health
- eligibility for matching payments for woody biomass harvested or collected outside of project area contracts is limited to eligible materials that do not have an existing market for non-biomass use
- no “arms length transaction” requirement applies
- a qualified BCF must agree to pay sellers the same rate for similar type and quality of material regardless of whether the seller may receive a matching payment.

B Implementation

EMO may apply for a matching payment **only** after BCF has been qualified under the provisions of the final rule. BCF that may have been qualified under NOFA must reapply to be qualified under the final rule.

The basic sequence of events for matching payments is:

- BCF and FSA sign an agreement qualifying the facility to participate in BCAP
- EMO enters into a binding agreement with BCF to deliver eligible material
- EMO initiates a matching payment agreement with FSA for matching payments on expected deliveries to the qualified BCF
- EMO works with a technical assistance provider to develop a conservation, forest stewardship, or equivalent plan for the land where eligible material will originate
- EMO provides the plan to FSA and FSA approves the matching payment agreement
- EMO begins delivering eligible material to qualified BCF which monitors and tracks deliveries
- after deliveries are complete, EMO requests payment from FSA
- FSA makes matching payment.

Note: A forthcoming directive will provide policy and procedure for administering BCAP matching payments. Matching payments will initially be administered through the CRES system. A web-based system for matching payments is in development.

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4 Action

A Accessing Training Materials

Informational materials for BCAP are posted on the FSA BCAP website at www.fsa.usda.gov/bcap . Additional training materials will be made available through the FSA Intranet.

B County Office Action

County Offices shall read and understand the provisions of this notice.

C State Office Action

State Offices shall read and follow the provisions of this notice.