

For: State and County Offices

**Restarting BCAP Matching Payments for Prioritized Eligible Materials and
Signing Up Eligible Material Owners (EMO's) for FY 2014**

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

On September 30, 2013, BCAP authorization expired.

On February 7, 2014, BCAP was reauthorized under the 2014 Farm Bill with mandatory annual funding of \$25 million for each FY 2014 through 2018. Funding requirements mandated that not less than 10 percent, nor more than 50 percent, of the annual funding be used to for collection, harvest, storage, and transportation payments (BCAP matching payments).

Notice of Funds Availability (2014 NOFA) was published in FR, pages 33492-33495, announcing that for the remainder of FY 2014 BCAP shall provide up to \$12.5 million in BCAP matching payments at a rate of not more than \$20 per dry ton for agricultural and forest residues **only from FS National Forest System and DOI, BLM lands.**

In addition, the 2014 NOFA:

- provided that the restart of BCAP matching payments for these specific eligible materials would commence following the submission of Biomass Conversion Facility (BCF) applications to FSA State Offices from June 16, 2014, through COB July 14, 2014
- announced that following the end of the BCF application process, FSA will post a list of the selected qualified BCF's on or about July 21, 2014, to FSA's web site at **www.fsa.usda.gov/bcap**, with signup for EMO's beginning on July 28, 2014, and ending on August 25, 2014, according to availability of funds.

Disposal Date	Distribution
October 1, 2014 7-28-14	State Offices; State Offices relay to County Offices

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1 Overview (Continued)

B Purpose

This notice advises:

- State and County Offices about general provisions related to the restart of BCAP matching payments for FY 2014
- County Offices to follow guidance in this notice for applications of EMO's for FY 2014
- State and County Offices about the policy and procedures for submission, review, and approval of EMO applications for FY 2014.

2 BCAP Restart of Matching Payments for Selected Eligible Materials for FY 2014

A Overview of Restart of BCAP Matching Payments for FY 2014

The 2014 NOFA provides the following:

- up to \$12.5 million in BCAP matching payments for remainder of FY 2014
- the selected or prioritized eligible material will be **only** agricultural residues or forest residues from the FS National Forest System and DOI, BLM public lands for FY 2014
- the BCAP matching payment rate will be up to \$1 for each \$1 per ton provided to the qualified BCF, not to exceed more than \$20 per dry ton

Note: The not to exceed rate of \$20 per dry ton matching payment is required by the 2014 Farm Bill.

- BCF's must first be qualified by FSA **before** EMO's may deliver the selected eligible material provided in this subparagraph, or apply for BCAP matching payments.

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2 BCAP Restart of Matching Payments for Selected Eligible Materials for FY 2014 (Continued)

A Overview of Restart of BCAP Matching Payments for FY 2014 (Continued)

The following table provides the timeline for the restart of BCAP matching payments for FY 2014.

Signup Category	Application Location	Dates
Biomass Conversion Facility Application for Qualification	State Office where the facility is located.	June 16, 2014, through July 14, 2014
Eligible Material Owner Application for BCAP Matching Payments	County Office where the land is located or County Office where the farm records exist.	July 28, 2014, through August 25, 2014 <u>1/</u>

1/ The August 25, 2014, signup end date is subject to the availability of funding. Eligible material deliveries **must occur before September 27, 2014**, unless determined otherwise by DAFP. Request for payment by EMO's **must** be submitted **no later** than September 30, 2014.

3 EMO and Eligible Materials Overview

A Submission Overview

Beginning July 28, 2014, through COB August 25, 2014, EMO applications will be accepted at the County Offices closest to 1 of the following:

- where field or CLU is located and on which the collection or harvest takes place
- Federal lands, unless otherwise previously designated in a specific county
- County Office where records already exist.

Note: The signup end date of August 25, 2014, is subject to the availability of funding.

B Eligible Material

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 the 2014 NOFA, and is either agricultural residues or forest residues from the FS National Forest System and DOI, BLM public lands

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3 EMO and Eligible Materials Overview (Continued)

B Eligible Material (Continued)

- is consistent with the guidance provided in the eligible material listed in the 2014 NOFA
- meets the requirements of the 2014 NOFA and this paragraph.

C Qualifying Material Collection and Harvesting Requirements

Material from other Federal land and non-industrial private forest lands is **not** eligible. However, to be determined qualified for a matching payment by COC, the eligible material **must** also be collected or harvested according to the following:

- by EMO directly from any of the following:
 - FS National Forest System lands
 - DOI, BLM public lands
 - non-Federal agricultural lands
 - agricultural 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.

Note: Non-Federal agricultural land includes land owned by State and local governmental entities in addition to privately owned land.

- by EMO, consistent with an approved 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 2014 NOFA on June 11, 2014.

D 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, for the purposes of FY 2014, **must** meet the following requirements outlined in the 2014 NOFA:

- agricultural or crop residue may include woody agricultural residues, such as orchard waste, that does **not** have an existing higher-value product market, such as mulch, fiberboard, nursery media, lumber, or paper

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3 EMO and Eligible Materials Overview (Continued)

D Additional Eligible Material Qualifications for Woody Material (Continued)

- woody materials only from public forestland

Note: The eligible woody materials **must** be the by-product of preventive treatments for hazardous fuel reductions or containment or reduction of disease or insect infestations and must **not** have an existing market in that region.

- must be harvested or directly from the land according to an approved forest stewardship or equivalent plan
- if collected or harvested from eligible Federal public lands that approved forest stewardship or equivalent plan, **must** be evaluated by the technical service provider, the FS district ranger or designee or BLM forester, for certification that the woody material to be harvested or collected is a by-product of a preventative treatment.

Note: State Offices shall work directly with applicable FS contract officers and BLM Field Office managers to obtain certification for County Office after EMO submits BCAP-10 for BCAP matching payments. See Exhibit 1 for FS and BLM evaluation sheets.

E 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** approved BCAP project area contract acreage that must be separated from material used for an existing or higher-value product after delivery to BCF
- change ownership before delivery to qualified BCF.

F Other Land Requirements for Eligible Material

When eligible material is collected and harvested from:

- CRP contract acreage, it **must** be harvested or collected under CRP's managed haying requirements according to 2-CRP, Part 13
- land enrolled under other Federal programs, it **must** be harvested or collected according to provisions authorized by those programs
- other State, local government, and Native American land, it **must** be harvested and collected according to all applicable Federal, State, and local laws and regulations.

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4 Nonqualifying Eligible Materials

A Regardless of Eligibility Provisions

Any of the following does **not** qualify for a matching payment:

- intermediate ingredients and feedstocks, including any material generated by any type of factory or processing facility, including but **not** limited to:
 - intermediate qualified BCF's
 - food processing facilities
 - other facilities that use plant materials
 - a waste handling facility
 - any other industrial plants
 - other related facilities

Note: These materials do **not** qualify for payment because eligible material was **not** collected or harvested directly from land.

- any material harvested or collected in a manner other than consistent with the approved conservation, forest stewardship, or equivalent plan
- any material, harvested outside of contract acreage, delivered to a qualified BCF in a load where some part of that load will be used for an existing or higher-value product

Note: See Exhibit 2 for a definition of higher-value product, such as mulch, fiberboard, lumber, paper, or other nursery media.

Exception: *De minimis* amounts of normally occurring foreign material, including minimal amounts of Title I commodities listed under 8-LP, paragraph 225 or 7-CN, or related matter in a load resulting from normal industry biomass harvesting and collection practices, may qualify for matching payment.

- any material that will **not** or was **not** used at a qualified BCF to produce heat, power, advanced biofuels, or bio-based products or related facility bioenergy production research
- any material harvested or collected from a field (CLU), or from any designated parts of field (CLU), or fields, for which COC determines does **not** meet all eligible material requirements according to the 2014 NOFA

Example: On a 100-acre CLU with a mixed stand of pines and hardwoods, a forester has determined that a portion of the pine trees must be removed to contain an outbreak of pine-bark beetles. The pine trees that must be removed to address the infestation **meet** the matching payment qualification that eligible material be harvested for the purpose of controlling an insect infestation. The other pine trees and the hardwoods on that CLU that do **not** have to be harvested to address the infestation, do **not** meet that qualification and **cannot** receive a BCAP matching payment.

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4 Nonqualifying Eligible Materials (Continued)

A Regardless of Eligibility Provisions (Continued)

- any material harvested or collected from land not located within the U.S.
- any material for which a matching payment has already been requested
- any individual that has already received a total of 2 years' worth of matching payments. See paragraph 6.

5 EMO's

A EMO Requirements

[NOFA, June 11, 2014] "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 BCAP contract acreage authorized by subpart C of 7 CFR 1450.102; or
 - (2) Have the legal 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, which 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 has been harvested according to an approved conservation plan for agricultural residues, and, if not agricultural residues, harvested or collected according to an approved forest stewardship plan or equivalent plan that has been evaluated by an authorized BCAP technical service provider for certification that the materials are the by-product of preventative treatments being removed to reduce hazardous fuels or to reduce/contain disease or insect infestation; or
- (b) Be a qualified BCF that meets the requirements of this Notice, and as such, may be considered an eligible material owner if it otherwise meets the definition in this part."

Under BCAP matching payments provision, any owner of eligible material, inside or outside a project area, can be considered 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
- producer of an eligible crop on land enrolled under BCAP-24 contract.

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.

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5 EMO's (Continued)

A EMO Requirements (Continued)

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.

Note: EMO's presenting public land contracts with FS or BLM should provide only the information needed to complete the technical service provider evaluation sheet. FSA State Offices shall work directly with applicable FS contract officers and BLM Field Office managers to obtain forest stewardship plan evaluation certification for FSA County Office after EMO submits BCAP-10 for BCAP matching payments. See Exhibit 1 for FS and BLM evaluation sheets.

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 provide appropriate documentation substantiating the certifications on BCAP-10 and BCAP-11.

EMO's **must**:

- certify that the eligible material, if agricultural residue, has been harvested or collected consistent with an approved conservation plan and, if woody, certify that the material has no existing higher product value market
- certify that the eligible material, if forest residue, has been harvested or collected consistent with an approved forest stewardship or equivalent plan and that the material has no existing higher product value market
- retain records for each load of eligible material that identifies the location of the FSA CLU's/fields from which the biomass was harvested and collected
- harvest or collect eligible material directly from land
- be in compliance with 6-CP HEL and WC provisions, where applicable
- 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 the incremental payments are requested for incremental deliveries of loads associated with a single approval.

- submit accurate and complete information when submitting BCAP-11 requesting payment

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5 EMO's (Continued)

A EMO Requirements (Continued)

- **not** have already received a total of 2 years' worth of matching payments

Note: See paragraph 6.

- **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, tribe, county, or other local governmental entity, or foreign owner, provided all other eligibility criteria are met
- can be a qualified BCF, provided all other eligibility criteria are met.

6 Statutory 2-Year Payment Duration Limit

A General Rule

For any EMO, matching payments are only authorized for a 2-year (730 calendar day) 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: Consistent with the statute, deny any requests for matching payments from any EMO for which the 2-year period has been exceeded and provide appeal rights according to 1-APP.

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

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

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6 Statutory 2-Year Payment Duration Limit (Continued)

B BCAP Matching Payment Provisions

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. 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, then subtract a single day from the 2-year period.

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

7 BCAP-10

A Overview

EMO will use BCAP-10 to enter applications for payment, approval, and payment under BCAP's 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 the required supplemental 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 FS national forest or DOI, BLM lands, it will be the FSA County Office geographically nearest to the Federal lands, unless otherwise previously designated in a specific county.

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7 BCAP-10 (Continued)

A Overview (Continued)

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

- 1 of the following:
 - approved conservation plan
 - approved forest stewardship plan
 - approved equivalent plan
- completed plan evaluation sheet for routing by the FSA State Office to the technical service provider for certification

Note: A new or amended conservation plan may be necessary and must be obtained and approved **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 Letter of Intent (LOI) between a qualified BCF 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 qualified BCF, and price per dry ton or dollar range per dry ton to be paid on delivery.

B Example of BCAP 10 and Instructions

See 1-BCAP, paragraph 125 for an example of BCAP-10 and instructions.

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8 BCAP-11

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 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
- submitted with the required supplement documentation at the FSA County Office where the associated BCAP-10 was filed.

B Example of BCAP-11 and Instructions

See 1-BCAP, paragraph 126 for an example of BCAP-11 and instructions.

Example of the FS and BLM Evaluation Sheets

The following is an example of the BCAP forest stewardship plan or equivalent plan **FS evaluation sheet** for EMO’s applying for BCAP matching payments.

Note: This evaluation sheet is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “FFAS Employee Forms/Publications Site” and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “BCAP-USFS”.

(07-28-14)			U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation BIOMASS CROP ASSISTANCE PROGRAM Forest Stewardship Plan or Equivalent Plan Bureau of Land Management (BLM) Evaluation Sheet for Eligible Material Owners Applying for BCAP Matching Payments		
For FSA Office Use Only			2. Owner Address (Including Zip Code)		
1. Eligible Material Owner(s) Name			Phone Number (Include Area Code):		
1A. BCAP Contract Control					
1B. State and County Code					
1C. Agreement Expiration Date (MM-DD-YYYY)					
3. Check Appropriate Description:					
<input type="checkbox"/> A. Bureau Land Management (BLM) <input type="checkbox"/> B. National Forest System (NFS)					
4. Location of Collection and Harvest:					
A. Town/County			B. Contractor/Purchaser Name		
5. Project Name		6. Contract Number		7. Township, Range, Section	
8. Total Acres Included in Collection and Harvest			9. Total Expected Dry Tons of Collection and Harvest		
10. Anticipated Date Range of Collection and Harvest					
Certification Statement by the reviewers:					
11. This biomass removal is required for the following, please check:					
A. Insect infestation containment or reduction		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
B. Disease containment or reduction		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
C. Fire fuel load management or reduction		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
12. BLM Field Office Manager Signature		13. Name of BLM Field Office Manager		14. Date (MM-DD-YYYY)	
<i>By signing this evaluation sheet, I certify that the collection/harvest in the tract of land indicated in the attached BCAP SHAPE files is in compliance with the Forest Stewardship or equivalent plan and forestry standards.</i>					
15. BLM Forester Signature		16. Name of BLM Forester		17. Date (MM-DD-YYYY)	

Example of the FS and BLM Evaluation Sheets (Continued)

The following is an example of the BCAP forest stewardship plan or equivalent plan **BLM evaluation sheet** for EMO’s applying for BCAP matching payments.

Note: This evaluation sheet is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “FFAS Employee Forms/Publications Site” and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “BCAP-BLM”.

(07-28-14)			U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation BIOMASS CROP ASSISTANCE PROGRAM Forest Stewardship Plan or Equivalent Plan Bureau of Land Management (BLM) Evaluation Sheet for Eligible Material Owners Applying for BCAP Matching Payments		
For FSA Office Use Only			2. Owner Address (Including Zip Code)		
1. Eligible Material Owner(s) Name					
1A. BCAP Contract Control					
1B. State and County Code					
1C. Agreement Expiration Date (MM-DD-YYYY)		Phone Number (Include Area Code):			
3. Check Appropriate Description:					
<input type="checkbox"/> A. Bureau Land Management (BLM) <input type="checkbox"/> B. National Forest System (NFS)					
4. Location of Collection and Harvest:					
A. Town/County			B. Contractor/Purchaser Name		
5. Project Name		6. Contract Number		7. Township, Range, Section	
8. Total Acres Included in Collection and Harvest			9. Total Expected Dry Tons of Collection and Harvest		
10. Anticipated Date Range of Collection and Harvest					
Certification Statement by the reviewers:					
11. This biomass removal is required for the following, please check:					
A. Insect infestation containment or reduction		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
B. Disease containment or reduction		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
C. Fire fuel load management or reduction		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
12. BLM Field Office Manager Signature		13. Name of BLM Field Office Manager		14. Date (MM-DD-YYYY)	
<i>By signing this evaluation sheet, I certify that the collection/harvest in the tract of land indicated in the attached BCAP SHAPE files is in compliance with the Forest Stewardship or equivalent plan and forestry standards.</i>					
15. BLM Forester Signature		16. Name of BLM Forester		17. Date (MM-DD-YYYY)	

Definitions and Terms Used in This Notice

For the purposes of this notice, new or revised definitions found in the 2014 NOFA include the following.

- Agricultural residue means crop residue from agricultural lands **including** woody orchard waste.
- Dry ton means one U.S. ton measuring 2,000 pounds. One dry ton is the amount of renewable biomass that would weigh one U.S. ton at zero percent moisture content. Woody material dry ton weight is determined in accordance with applicable ASTM (American Society for Testing and Materials) standards.
- Eligible material means renewable biomass as defined in 7 CFR 1450.2, except that the 2014 Farm Bill specially excludes the following from this definition:
 - (1) Material that is whole grain from any crop that is eligible to receive payments under title I of the 2014 Farm Bill or an amendment made by that title, including—barley, corn, grain sorghum, oats, rice, or wheat; honey; mohair; oilseeds including canola, crambe, flaxseed, mustard seed, rapeseed, safflower seed, soybeans, sesame seed, and sunflower seeds; peanuts; pulse; chickpeas, lentils, and dry peas; dairy products; sugar; and wool and cotton boll fiber;
 - (2) Animal waste and by-products including fat, oil, grease, and manure;
 - (3) Food waste and yard waste;
 - (4) Bagasse; and
 - (5) Algae.

Definitions and Terms Used in This Notice (Continued)

The following terms are defined in 7 CFR 1450.2:

- advanced biofuel
- agricultural land
- animal waste
- biobased product
- bioenergy
- biofuel
- BCF
- conservation plan
- delivery
- deputy administrator
- EMO
- equivalent plan
- food waste
- forest stewardship plan
- higher-value product
- Indian tribe
- intermediate ingredient or feedstock
- legal entity
- matching payments
- operator
- participant
- producer
- project area
- project sponsor
- qualified BCF
- renewable biomass
- SDA farmer or rancher
- violation
- yard waste.