

## **BCAP Questions and Answers**

### **Phone Conference January 12, 2010**

**Question:** Can settlement sheets be used in lieu of scale tickets?

**Answer:** Yes, for each eligible material owner who delivers biomass, they may indicate on each scale ticket OR settlement sheet for a given eligible material owner. If settlement sheets are submitted in lieu of scale tickets all of the following must be included at a minimum:

- for each load, the actual total tonnage (green tons) delivered,
- for each load, the total dry-ton equivalent (dry tons) to the actual tonnage delivered
- for each load, the date of delivery
- for each load, the certified scale ticket number
- for each load, price per dry ton paid
- for each load, type of eligible material biomass delivered
- for each scale ticket or each settlement sheet submitted,
  - an authorized signature (original, electronic or stamped)
  - unique facility ID number

**Notes:** A copy of the signed scale ticket or settlement sheet must be provided to the eligible material owner.

**Question:** If eligible material is harvested or collected from WHIP acreage, is it eligible for the BCAP matching payment and would there potentially any payment reductions?

**Answer:** Yes, it is eligible for matching payment provided all other criteria are met. There would not be any payment reduction in the BCAP matching payment. However, NRCS would make the determination of any reduction in WHIP payments.

**Question:** Can a company that owns a qualified biomass conversion facility also become an eligible material owner if the company has eligible materials that it sells at arm's length to an unrelated facility and the eligible materials are not processed or originating from the company's qualified biomass conversion facility?

**Answer:** Yes, a company can own a qualified biomass conversion facility and also become an eligible material owner if the company has eligible materials that it sells at arm's length to an unrelated facility and the eligible materials are not processed or originating from the company's qualified biomass conversion facility.

**Example:** Qualified BCF ABC owns woodland that is producing eligible material that is being delivered to Qualified BCF DEF, that is not legally affiliated with ABC. In this case, ABC may be an eligible material owner and a QBCF.

**Question:** Is there a standardized letter or template that the County office may use to notify the eligible material owners of their approval of payment by the COC?

**Answer:** There is no standardized letter for notification of eligible material owner's approval of obligation for payment. However, the letter template provided in Exhibit 1 of this document provides the pertinent information that should be communicated to the eligible material owner

upon approval of their AD-245, page 1 by the COC for obligation of payments. This template may be uniquely personalized and used to notify the eligible material owner of their approval.

**Question:** What will be satisfactory proof of material ownership for an eligible material owner that owns land where the collection and harvest takes place? Specifically, what must the eligible material owners present to show proof that they have legal title to the material and the land?

**Answer:** According to 3-CM, a land owner is an individual or entity who has legal ownership of farmland, including individuals or entities that are any of the following:

- buying farmland under a contract for deed
- retaining a life estate in the property
- purchasing a farm in a foreclosure proceeding and both of the following apply:
- the redemption period has not passed
- the original owner has not redeemed the property
- a spouse in a community property State
- spouses owning property jointly.

An owner, according to 7 CFR 718.2 is an individual or entity who has legal ownership of farmland, including individuals or entities that are any of the following:

- buying farmland under a contract for deed  
**Note:** OGC, Regional Attorney shall review contracts that are questionable before changing FSA ownership records.
- retaining a life estate in the property
- purchasing a farm in a foreclosure proceeding and both of the following apply:
- the redemption period has not passed
- the original owner has not redeemed the property
- a spouse in a community property State
- spouses owning property jointly.

COC shall require specific proof of ownership when land ownership is transferred.

**Examples:** 3-CM Examples for Proof of ownership are currently listed as:

- copy of the deed, if recorded
- unrecorded deed, if specific program does not require a recorded deed
- land contract
- FSA employee's check of the record at the county land records office
- proof of gift tax
- real estate tax assessment or bill

In addition to the 3-CM land verification process the following alternative may be used:

- a notarized affidavit, which contains the land owner's legal name for all relevant land ownership for each county, (see the attached Exhibit 2), which must be submitted with either a plat map(s) or GIS shapefile(s) which delineates the land ownership.

## EXHIBIT 1

EMO Name  
EMO Address  
City, State 12345

Dear EMO:

Your request for matching payments under the Biomass Crop Assistance Program (BCAP) has been approved for the biomass materials indicated on the enclosed AD-245. BCAP payments for collection, harvest, storage, and transportation (CHST) of eligible materials will be available at the rate of \$1 for each \$1 per dry ton paid by the CHST-qualified biomass conversion facility (BCF), which is also specified on the enclosed application.

The following should serve as a guide in completing and reporting the activity to receive CHST payment:

- The “C/S Willing to Approve” indicated on the enclosed application represents the amount of funds that have been obligated to your application. Materials delivered in excess of the “Extent Approved” may not be eligible for matching payments.
- Materials delivered prior to the approval date indicated on the enclosed application will NOT be eligible for matching payments.
- Biomass materials that have been approved for CHST may now be harvested and delivered to the qualified BCF on the application.
- Upon delivery the BCF shall provide you will scale tickets and receipts for all material delivered specifying the following:
  - Name and ID number of CHST – qualified BCF
  - Names of the CHST – qualified BCF authorized representative that purchased and received the eligible materials
  - Date of the actual delivery
  - Eligible material type by common use name
  - Net weight recorded in total tons and the dry-ton equivalent
  - Payment total or price for each purchase
  - Price per dry ton paid
  - Person or entity that delivered the eligible material
  - Eligible material owner (EMO) at the time of delivery
- Once this has been provided to you from the BCF, you must submit those documents to the FSA office in which you filed the original application in order for you payment to be processed.
- The expiration date indicated on the enclosed application is March 31,2010. The funds obligated on the enclosed application will ONLY cover CHST matching payments for materials delivered to the qualified BCF on or before March 31, 2010. You may request an extension of up to 30 days if necessary. Requests for extension but be submitted to the local FSA office in writing before March 31, 2010 in order to be considered.
- The approval date indicated o the attached application will begin the 2-year time limitation in which you may receive CHST matching payments.

Please feel free to contact this office with questions or concerns at (XXX) XXX-XXXX.

Sincerely,

Name

County Executive Director

Enclosure

**EXHIBIT 2**

State of \_\_\_\_\_  
County of \_\_\_\_\_

**BEFORE ME**, the undersigned Notary, \_\_\_\_\_ [name of Notary before whom affidavit is sworn], on this \_\_\_\_\_ [day of month] day of \_\_\_\_\_ [month], 20\_\_\_\_, personally appeared \_\_\_\_\_ [name of affiant], known to me to be a credible person and of lawful age, **possessing power of attorney to represent** \_\_\_\_\_, who being by me first duly sworn, on \_\_\_\_\_ [his or her] oath, deposes and says:

\_\_\_\_\_ **Entity or Individual owns the land described on the attached plat or GIS snapshot depicting the area of collection and harvest.**  
[set forth affiant's statement of facts]

\_\_\_\_\_  
[signature of affiant]

\_\_\_\_\_  
[typed name of affiant]

\_\_\_\_\_  
[address of affiant, line 1]

\_\_\_\_\_  
[address of affiant, line 2]

Subscribed and sworn to before me, this \_\_\_\_\_ [day of month] day of \_\_\_\_\_ [month], 20\_\_\_\_.

[Notary Seal:]

\_\_\_\_\_  
[signature of Notary]

\_\_\_\_\_  
[typed name of Notary]

NOTARY PUBLIC

My commission expires: \_\_\_\_\_, 20\_\_\_\_.