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Federal Register, Vol. 75, No. 25, Monday 2/2/10, Proposed Rules, Biomass Crop Assistance Program

The NC Association of Professional Loggers, Inc. submits the following comments:

1. The intent of BCAP, as clearly and concretely defined by Congress in the “2008 Farm Bill” was to cover costs as payments for collection, harvest, storage and transportation to a biomass conversion facility. It is clear that the financial incentives allowed are to benefit the businesses that collect, harvest, store and transport eligible material. The fraud, waste or abuse identified in the USDA, BCAP-8 notice, issued by the FSA on 1/8/10, identified reports of CHST-qualified facilities requiring eligible material owners to pay “kickbacks”, value-shares”, or “administrative fees”. We are pleased to report that none of these practices were reported in NC to our knowledge. In keeping with Congress’s intent we suggest that final regulations prevent delivery arrangements with two tiered delivery pricing schemes, one lower price for BCAP eligible deliveries and one higher price for non-BCAP deliveries. We also recommend having a formal reporting mechanism through the FSA for alleged violations as outlined in BCAP-8.
2. The cessation of funding at the end of the Notice of Funds Availability (NOFA) period and beginning of the comment period appears to be unprecedented and has resulted in financial harm to BCAP eligible material owners. There was no official notice of future suspension of funds in the NOFA nor was there a past historical event with the FSA that would have indicated a suspension. The NC Association of Professional Loggers, Inc. goes on record that members who embraced BCAP under the NOFA and purchased eligible timber and biomass and invested in capital equipment to harvest and transport that material have been irrevocably harmed in a truly negative financial manner. Their current losses can only become deeper if the final rules are debated indefinitely.
3. The eligibility time period of two years for eligible biomass owners should be extended for previously approved owners by the same length of time that the program is suspended to take comments and reach final approval of the BCAP program. In other words, a 6 month suspension should equate to a 6 month addition of eligibility. The two year period that begins upon the first initial payment is fully endorsed. Furthermore, since timber and the resulting woody biomass is purchased on long term contracts that typically run two years, it is recommended that the two year eligibility period coincide with the timber purchase contract not to exceed a contract period of two years. In other words an eligible owner previously receiving payments would have up to two years on an approved tract of timber even if he submitted his timber ownership documents (timber deed or cutting contract) on the last day of his initial two year period. Timber and resulting biomass is purchased in advance and delivered when weather and ground conditions allow harvesters to be environmentally responsible and not facing an administrative deadline.

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4. Our association supports only the matching payment option #3 calling for a full payment of \$1.00 for each \$1.00 delivered bone dry ton up to \$45.00 for facilities providing biofuels, renewable energy, and biobased products. Existing facilities should be included owing to the fact that a greenfield development will take more than two years in permitting and construction and will be outside the window of benefit. Existing facilities also have the option of increasing biomass consumption over a historical baseline as economic and regulatory factors prevail. A very low hurdle of exceeding historical consumption should be set to favor an upward trend in using renewable biomass materials over time.

5. While it is understandable that some segments of the forest product industry resist BCAP and object on the basis of inequities because they cannot measure the immediate benefits, the following observation is provided. Woody biomass is the lowest value forest product and not the principle economic driver for why a forestland owner decides to grow and harvest timber. The positive economics of growing timber are from having various and diverse markets for all the multitude of forest products to be merchandized to the highest and best use. The fact that a landowner can now achieve a higher value for his biomass that either is paid direct or trickles down through competitive bidding and delivery is a plus to his continued ownership and management of forestland. Likewise the professional logger who can benefit by payments to upgrade and invest in biomass harvesting and transportation equipment is adding value to all the other non-biomass forest industries by fact of being profitable, stable and yes, being able to harvest and merchandise all forest products as part of an integrated operation.



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