



January 24, 2011

BCAP Questions and Answers 1/24/11

Is it true that eligible owners must apply in every county where the eligible material originates rather than their county of home residence?

Yes, this is true. The eligible material owner, per sections 145.102 and 1450.103 of the BCAP final rule, must directly harvest/collect the eligible materials from the land. The eligible material owner must also have their name on the conservation plan, forest stewardship plan or equivalent plan. It is correct that the Paperwork Reduction Act does apply. This was all passed through the Paperwork Reduction Act review process.

Is it your read of the Final Rule that those biomass owners who applied and began their 2 years and purchased biomass are not bound by the requirements of “higher value existing markets” on contracts they have in place?

I am not sure what “contracts” are being referred to, so I will answer in two ways: 1. According to contracts between the BCF and EMO; and 2. According to contracts between the EMO and CCC(FSA). Those EMOs that had contracts (an approved AD-245) under the NOFA with CCC (FSA) would have expired on March 31st. Thus, any deliveries that are approved under the final rule are new contracts with CCC (FSA) and the existing market product requirement for woody eligible material applies. If an EMO had a contract with a BCF that ran through the whole year, for example Feb. 2010 to Feb 2011, the fact that the contract began under the NOFA does not preempt the requirement for the higher value/existing market. All contracts between the CCC (FSA) and EMOs must meet the requirements set forth under the BCAP final rule.

What guidelines are FSA offices using to determine “higher value existing markets”?

We have not released guidelines yet for the higher value existing market requirement. Although there is no guidance to point you to, I will say this, a lot of consideration will be made for this requirement. I have heard that a lot of folks are concerned and we understand. We are doing our best to ensure that the matter is not a blanket measure and considers more than just geography.

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