



October 6, 2010

BCAP UPDATE 10-5-10 (Phone Conversation with Kelly Novak USDA-FSA)

Kelly expects the final rule to come out in October. A request has also been made to waive the 60-day Congressional review period. The final rule now resides in the Office of Budget Management. The significant changes will be in how the process is handled. Conversion facility and eligible biomass definitions remain the same as detailed in the 2008 Farm Bill.

The final rule will address both harvest and planting programs. A 2011 cap of \$432 million has been established. This compares to \$246 million spent for just matching payments in the short life of the earlier program. All conversion facilities will have to reapply. There were 453 on record earlier. Of the 24,008 comments received the FSA identified 370 plus major areas of concern. The environmental assessment of the rule is on track and had some 400 pages of issues addressed in comments. A large majority of the proposed rule comments addressed the subjects of sustainability, loss of wildlife habitat, loss of soil fertility and water quality. The new process will be much slower than the earlier program. Those applying as to establish a project area should expect a 3 month application and approval period. Of major significance will be a requirement for a biomass harvesting plan and environmental impact review for both the matching payments and BCAP contracts for eligible crop annual payment contracts. This could most likely be administered by the respective state forestry agencies, federally delegated state environmental agencies and the NRCS. There is no indication of where the funding for this technical assistance would come from.

Kelly said she was unable to share some of particulars as to subsidy rates and ceilings while USDA is still in the rulemaking process, although she said a simple and applicable approach will be selected. She also said there are still relief requests from the earlier program active and that the only holdback is that the authorized funding from the NOFA is not applicable for most of the remaining relief requests..

When asked whether a congressional review would reduce the chances of an injunction she said it was a toss-up.

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