BCAP Questions and Answers

Forest Stewardship Plans

QUESTION: How is compliance with a Forest Stewardship Plan to be documented by a CHST biomass owner? Same question but the CHST biomass owner is not the landowner but rather the contractor? How would a contractor know that the harvested biomass was grown in consideration of a Forest Stewardship Plan?

ANSWER: The landowner with Eligible Material should provide documentation that he/she has a Forest Stewardship Plan or a Forestry plan that would provide for the use of biomass provided that the plan is currently in place or can be developed at no cost to CCC.

A contractor or aggregator that has control of eligible material is not required to document the FSP or forest plan. The co-mingling of material would make tracing the point of origin of the material very difficult.

QUESTION: Who is responsible for ensuring that there is a forest stewardship plan in effect on land from which eligible material is collected or harvested - material owner? BCF? FSA County Office? How is the existence of the forest stewardship plan documented?

ANSWER: The Eligible material owner (for material harvested from land under their control/ownership) is responsible. The owner would self-certify that they have a FSP or equivalent plan.

BCAP Regulation, FY 2010 Funding and Period of Performance on AD-245s

QUESTION: What is the status of Interim Rule

ANSWER: The proposed rule is currently under review at the Office of Management and Budget (OMB).

QUESTION: When will 2010 BCAP funds be available?

ANSWER: Funds will be made available shortly after FSA receives the BCAP apportionment from the OMB.

QUESTION: We have facilities in the works that could result in millions on payments to their suppliers. Is there adequate funding?

ANSWER: Our apportionment request should be adequate to address the FY 2010 needs. The law provides that of the funds of the CCC, the Secretary shall use to carry out this section such sum as are necessary for each of the FY 2008 through FY 2012.

QUESTION: Are you still wanting us only to approve an application for what we anticipate will be delivered and sold in the coming 3 months?

ANSWER: Once FY 2010 funds are available, a Notice will be available that details the period of performance on the AD-245s for FY 2010.

QUESTION: Can FSA accept and approve pre-application 245's, page 1, even though funding is not available?

ANSWER: Yes, applications may be accepted but must NOT be approved until funding is allocated to your State.

QUESTION: Many of the EMOs have delayed delivering biomass to the BCFs until they receive approval so they can receive the matching payments. We now have the BCFs concerned about this delay. When can we expect 2010 funds to be available?

QUESTION: We are going to be paying some very large firms (I spent an hour on the phone today with Georgia Pacific officials in Georgia) with major timber holdings. I presume you are aware we could be paying large amounts to some very big companies, which could be controversial.

ANSWER: We are aware that some individual/companies may receive substantial sums as part of their matching payments.

Eligible Materials

QUESTION: What is/where is the exact definition of "nonindustrial private forestland?"

ANSWER: The exact definition of non-industrial private forestland is found in Section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a): ” non-industrial private forestland is rural, as determined by the Secretary, lands with existing tree cover, or suitable for growing trees, and owned by any private individual, group, association, corporation, Indian tribe, or other private legal entity."

QUESTION: Is an industrial private forestland owner eligible to sell eligible material to an approved facility?

ANSWER: Yes, private forest land is eligible lands as a point of origin for eligible materials.

QUESTION: Would a TIMO be considered industrial or nonindustrial?

ANSWER: Yes, provided the TIMO is able to present prove of legal title to the eligible material at the time they go to the county office to file the AD-245 page 1.

QUESTION: Is reclaimed lumber or recycled wood considered eligible biomass material?

ANSWER: No. Reclaimed lumber is considered a construction/demolition waste or salvage product and not eligible.

QUESTION: A facility is working on a submission. They tell me than an approved BCF which is a large pulp/paper mill intends to have all their suppliers receive BCAP matching payments for 100% of the material that comes into their mill, most of which will be used for making paper. Is this acceptable?

ANSWER: No. Only the eligible material used for heat, or power for the facility will be eligible. Black liquor is not likely eligible. In most cases for a pulp facility < 10 percent of the tonnage of material (logs) delivered to the facility will be eligible for a matching payment. About 45 percent to 48 percent of the weight of the product is pulp, 45 percent of the residue is black liquor and only the remaining portion is potentially used to generate power, steam, etc.

QUESTION: A sawmill buys pine logs from a logger. The logs are sawed into boards, dimension lumber, and larger timbers. Sawdust and shavings are recovered. Some sawdust and shavings are sold to paper mills to be used as boiler fuel. Some sawdust and

shavings are burned on site to produce heat for kilns which dry the green lumber produced on site. The sawmill operator knows, based on historical data, the percentage of green sawdust and shavings that are used as fuel on site. Moisture can be determined from sampling and factors to convert green weight to dry weight can be developed. Based on this historical data and conversion methodology, can BCAP matching payments be issued to the material owners (loggers) based on calculations to determine percentage of a load burned for fuel by the facility and converted to a dry weight equivalent?

ANSWER: Yes – provided the State office reviews the data and it is consistent with industrial standards for similar type operations.

The NOFA only requires the following:
The facility must have access to commercial freight scales that are certified for accuracy by applicable State or local authorities and accurate moisture measurement equipment to determine the dry ton weight equivalent of actual tonnage delivered

QUESTION: Is "black liquor" (a byproduct of pulp manufacturing sold for biofuel production) eligible? I suspect not, but am getting that question from several firms.

ANSWER: No. The Eligible material list specifically states that black liquor is NOT eligible from Federal woody resources.

QUESTION: Pulp mills get a wide variety of materials delivered, and the method of dividing it and sending only a portion to their boiler (which generates heat and/or electricity), versus the pulp mill which isn't eligible, varies. In some cases the material delivered all goes to the boiler. In some cases only a portion does. In some cases whole logs are delivered, and they remove the bark, which goes to the boiler, while the log goes to pulp. How do we determine what is eligible for BCAP?

ANSWER: The qualified biomass conversion facility must be able to supply the eligible material owner with an invoice that records the actual dry weight ton of just the eligible materials used for the production of heat or power (electricity in this case). The eligible material list on the BCAP web page lists the eligible woody resources: www.fsa.usda.gov/bcap

QUESTION: We have some very large industrial lumber companies expecting to receive sawdust from smaller mills for use in their boilers, etc. The smaller mills are asking the county offices if they are eligible for matching payments on the delivery of sawdust from their mill. They may use a small amount of it but haul the majority to the larger BCF. The small mill does not intend to become a qualified BCF but want to become an EMO. BCAP-2 does not really address this since the small mill is not a qualified BCF and the sawdust is not considered unsuitable. Are the small mill and their sawdust eligible?

ANSWER: Yes, with certain circumstances. Sawdust is an eligible material, as it is a wood waste. The source material must not already have received a matching payment and the transaction between the smaller mill and larger mill must be arm's length.

The smaller saw mill must provide proof of legal title to the material and proof of a contractual agreement with the qualified biomass conversion facility and then follow the procedures of filing an AD-245 page 1 at the appropriate county office.

If the smaller saw mill had been a qualified facility, the only time a matching payment could occur is if the material were determined to be unsuitable for the smaller mill.

Where to Apply for Payments (proper COF)

QUESTION: Once a BCF is qualified a biomass owner may apply at the local office for the CHST payment and limited to a 24 month period. Is the 24 month period associated with the producer or the approval of each AD-245 request? Does it matter if the producer files multiple AD-245 in different counties or states at different times?

ANSWER: The 2 year period is associated with a producer [eligible material owner] the first time his/her application is approved. It does not matter if the person applies in multiple counties. Software will be developed that will track the two year period.

QUESTION: Are you still wanting an application filed in every county where material is gathered? This is going to create extra work for the applicants and a lot of potential duplication. Several suppliers collect from several counties, and they many not know where they are collecting from more that a few weeks in advance, as they follow behind logging operations, etc. If is very fluid. We really need to go with a control county for each applicant so we can keep track of all their paperwork and all their receipts and avoid duplicate payments.

ANSWER: That is the current policy that is outlined in the NOFA – we are looking at options.

QUESTION: What FSA Office Biomass Owners are to go to for AD-245 CHST-matching payment processing if biomass is from either private land, public land or intermediate facility. It seems as though Q10 on the BCAP website says go to the FSA office in County biomass was collected. BCAP-2 says on private land go to county where land is located but public land go to county nearest Q-BCF? (note that one biomass owner may sell to 10 different Q-BCF's and collect biomass from 20 counties in two different states).

ANSWER: Currently, the BCAP-2 Notice directs eligible material owners to report to the county office where the land is located from which the eligible material is collected and harvested or to the county office where farm records exist or if from public lands (Forest Service or BLM) the county office nearest the land.

We understand that some eligible material is an intermediate ingredient and co-mingled or aggregators co-mingle materials collected and harvested on various lands, so the county where the primary place of business is located will be the county where the AD-245 is filed.

Material Origin and Required Documentation

QUESTION: What is sufficient documentation to substantiate the sale of biomass derived from the sale of a load of green logs? The facility does not retain the indemnification of the biomass after delivery.

ANSWER: Notice BCAP-2 Step 3 – (F) Application for payment processing.

The qualified biomass conversion facility is required, per the signed Agreement with CCC/FSA/USDA, to maintain a purchase list (see the BCAP web page for an example of the Purchase List: www.fsa.usda.gov/bcap). The Purchase List provides a log of eligible material purchases and records actual tonnage, dry-ton equivalent, price per dry ton paid, total purchase price, and purchase owner name and authorized representative.

In addition, per the Agreement with CCC/FSA/USDA and NOFA, the qualified facility will record on the scale ticket the actual tonnage (green tons), date of delivery, and facility representatives handwritten signature or electronic signature. And finally the final invoice or receipt that is issued to the eligible material owner will include the green ton weight delivered along with the dry ton equivalent, price per dry ton paid, authorized representative's handwritten or electronic signature, Facility ID# and date of delivery.

Also, the qualified facility is required retain records which will include but is not limited to the spreadsheet, books, papers, records, contracts, scale tickets, settlement sheets, invoices, written price quotations, or other documents related to BCAP. Records will be maintained and retained for no less than three years from the date of payment for such renewable biomass purchases.

QUESTION: Could you elaborate on the documents you are wanting from the participant showing (1) they have the right to gather the material from someone else's site, and (2) they have an agreement with the BCF to buy it? This to is apparently a very fluid type of business arrangement because prices and availability can change almost daily.

ANSWER: The Eligible material owner should be able to document to the County office staff the source of the material and how they were able to acquire the control of the material. They should be able to supply you with some type of contract or receipt for product.

The BCF should have a contract or a letter of intent to purchase. The agreement should describe the purchaser, the amount of product, type of product, time frame, and to some extent the price range of the product.

QUESTION: Many of the EMO's who gather waste wood from the forest are strictly chipping operations. They have no association with the logging operation that generated

the slash piles being chipped. They may not even know who the logger was. Requiring them to obtain proof the logging operation was conducted in accordance with a forest stewardship plan (which is actually a State legal requirement in WA) is going to be very difficult, because they don't even have access to the plan without requesting it from someone else who has no interest in the BCAP application. What level of proof are we going to require that the land was logged under a forest stewardship plan? The same issue will arise when a sawmill sells waste wood (log ends, bark, etc) to a BCF, since it will be a mix of material from several logging operations.

ANSWER: The landowner with Eligible Material should provide documentation that he/she has a Forest Stewardship Plan or a Forestry plan that would provide for the use of biomass provided that the plan is currently in place or can be developed at no cost to CCC.

A contractor or aggregator that has control of eligible material is not required to document the FSP or forest plan. The co-mingling of material would make tracing the point of origin of the material very difficult.

QUESTION: The origin of the material is also becoming a controversial requirement. We are being told that in many cases the mill waste cannot be distinguished by what the origin of the trees was. In this case would we consider the origin the mill?

ANSWER: If the matching payment request is being made for mill waste then the point of origin will be the mill's address. For example, if a mill that is selling sawdust to a wood pellet producer that is a qualified biomass conversion facility enters a county office to apply for matching payment, the point of origin of the material will be the address of the mill.

Please note that the mill cannot be a qualified biomass conversion facility also, the material must not have already received a matching payment and the transaction must be arm's length.

QUESTION: BCF buys 500 truck loads of material per day. Material types are tree length fiber for chipping; in woods chips from logging sites; sawdust, shavings and other waste wood from intermediate facilities; etc. All material suitable for pulp is processed into paper. All other material, bark, sawdust, shavings, bad chips, fines, etc. are burned in the mill's boiler for heat or energy production.

a.) What documentation from BCF will be acceptable for processing BCAP matching payments to eligible material owners for the portion of material delivered to the BCF that is used for heat and energy production?

ANSWER: Most facilities of the size described (500/tons/day) keep very detailed records on the production. The facility should document to you the percentage of eligible

material used for pulp production, black liquor and burned for heat or energy. Only the product used for heat/energy, including steam, is eligible. Black liquor is not eligible.

b.) BCF periodically samples material for each material owner to determine moisture percentage. BCF will use these rolling average moisture percentages to convert green tons to dry tons. This information will be on weekly settlement sheets that are provided to material owners that will also include electronic signatures from a BCF representative. Is this adequate documentation for submission to COF's for processing BCAP matching payments to material owners?

ANSWER: We understand the concern expressed by industry on the sampling methodology used for moisture content for qualified biomass facilities. We are trying to come up with processes that ensure accurate data is provided. The challenge is trying to come up with a standard process(s) for an industry that has never embraced any standard protocol.

A settlement sheet could be considered a receipt or invoice for delivery and purchase. The settlement sheet would need to contain all the required elements of the invoice as cited in BCAP-2 Notice, page 15 – 16, Step 4, A and B.

Note: The scale ticket will only need to record the actual tonnage, the dry weight equivalent must only be recorded on the settlement sheet (invoice) per the NOFA, page 27770: CHST Qualified Biomass Conversion Facility Requirements, paragraph 6.

Moisture Measurement

QUESTION: Where are you on converting green tons to bone dry tons?

ANSWER: We are still looking at various options to determine dry tons. There is no methodology that is standard in the industry.

QUESTION: Moisture Measurement issue status - any direction while under NOFA - a BCF wants something in writing from FSA what will be acceptable

ANSWER: We are still looking at various options to determine dry tons. There is no methodology that is standard in the industry.

Other Questions

QUESTION: For biomass harvested from cropland an AD-1026 is required to be on file for the CHST biomass owner. How will the questions be answered when the eligible material is not produced by annual tillage of the soil? What response on the AD-1026 triggers a referral to NRCS for a determination related to conservation compliance? Based on handbook 6-CP NRCS has no justification to complete a review or do they?

ANSWER: Answer is pending.

QUESTION: Are timber management organizations (TIMO) that function as contractors for the harvest and sale of the timber production considered biomass owners for BCAP purposes?

ANSWER: If the TIMO has legal control of the eligible material they would be considered an eligible material owner. The TIMO would have to demonstrate (contract) that they have legal title to the eligible material.

QUESTION: What is considered a bio-based product under BCAP? Some products are not used for energy but rather compost, building products, etc.

ANSWER: The law defines biobased product means- a product determined by the Secretary to be commercial or industrial products, including renewable domestic agricultural material and forestry materials; or an intermediate ingredient or feedstock. We have not developed a list of bio-based products. We agree that compost and building materials are not "bio-based products".

The NOFA provides further clarification on what is bio-based per the defined term "bio-based CHST product." According to the NOFA, a bio-based CHST product is: "a product, determined by the Deputy Administrator to be a commercial or industrial product (other than food or feed) that is: (1) Composed in whole, or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials or (2) An intermediate ingredient or feedstock. Biobased product does not mean commercially produced timber, lumber, wood pulp or other finished wood products.

QUESTION: Biomass Agreement/Contracts/Letter of intent - covers multiple years, is already in place prior to Q-BCF, Biomass owner does not know specific location of where biomass will be harvested or collected during pre-application 245 processes.

ANSWER: The point of origin for materials delivered is not required for required for the AD-245 until delivery has been made and the eligible material owner is completing the AD-245 page 2.