

§ 1450.103

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of preventative treatments that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health.

(b) A qualified biomass conversion facility that meets the requirements of paragraph (a) of this section may be considered an eligible material owner if it otherwise meets the definition in this part.

[75 FR 66234, October 27, 2010, as amended at 76 FR 56951, Sept. 15, 2011]

§ 1450.103 Eligible material that qualifies for payment.

(a) Except for paragraph (b) of this section, in order to qualify, as determined by CCC, for a payment under this subpart:

(1) Eligible material must be renewable biomass that, at a minimum, meets the definition in §1450.2 and is listed on the official Web site for BCAP as an eligible material at <http://www.fsa.usda.gov/energy>;

(2) Eligible material must be collected or harvested by the eligible material owner:

(i) Directly from:

(A) National Forest System land, Bureau of Land Management land;

(B) Non-Federal land; or

(C) Land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States;

(ii) Consistent with a conservation plan, forest stewardship plan, or plan that CCC determined to be an equivalent plan, that provides the following:

(A) The purpose of the harvest of the eligible material;

(B) The expected volume of the harvest;

(C) The total number of acres to be harvested;

(D) The name of the eligible material owner(s); and

(E) Any additional information, as determined by CCC; and

(iii) Consistent with Executive Order 13112, “Invasive Species.”

(3) Woody eligible material produced on land other than contract acreage must be:

(i) Byproducts of preventative treatments that are removed to reduce hazardous fuels, to reduce or contain dis-

ease or insect infestation, or to restore ecosystem health; and

(ii) If harvested from Federal lands then done so in accordance with the requirements for old-growth maintenance, restoration, and management direction provided by 16 U.S.C. 6512 for Federal lands; and

(4) Eligible material must be delivered to a qualified biomass conversion facility (as specified in §1450.101 and other provisions of these regulations).

(b) Notwithstanding paragraph (a) of this section, payments under this subpart are not authorized for:

(1) Any eligible material delivered before October 27, 2010;

(2) Any eligible material for which payment from a biomass conversion facility was received before the application for payment under this subpart is received and approved by the FSA county office, as specified in §1450.104;

(3) Any woody eligible material collected or harvested outside contract acreage that would otherwise be used for higher-value products; or

(4) Any otherwise eligible material collected or harvested outside contract acreage that, after delivery to a biomass conversion facility, its campus, or its affiliated facilities, must be separated from an eligible material used for a higher-value market product in order to be used for heat, power, biobased products, or advanced biofuels.

§ 1450.104 Signup.

(a) Applications for participation and requests for payments under this subpart will be accepted on a continuous basis.

(b) An eligible material owner must apply to participate in the matching payments component of BCAP before payment for the eligible material is received from a qualified biomass conversion facility. The application must be submitted to the FSA county office and approved by CCC before any payment is made by the qualified biomass conversion facility for the eligible material.

(c) Applications must include the following:

(1) Based on information obtained from contracts, agreements, or binding letters of intent:

Commodity Credit Corporation, USDA

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(i) An estimate of the total dry tons of eligible material expected to be sold to the qualified biomass conversion facility;

(ii) The type(s) of eligible material that is expected to be sold;

(iii) The name of the qualified biomass conversion facility that will purchase the eligible material;

(iv) The expected, fair market, per dry ton payment rate the owner plans to receive for the delivery of the eligible material; and

(v) The date or dates the eligible material is expected to be delivered to the qualified biomass conversion facility.

(2) A new or amended conservation plan, forest stewardship plan, or equivalent plan, as specified in §1450.103.

(d) Eligible material owners who deliver eligible material to more than one qualified biomass conversion facility must submit separate applications for each facility to which eligible material will be delivered.

(e) After delivery, eligible material owners must notify CCC and request the payment. Payments will be disbursed only after delivery is verified by CCC.

(f) Information that must be submitted to CCC in order to request payments includes settlement, summary, or other acceptable data that provide:

(1) Total actual tonnage delivered and a total dry weight tonnage equivalent amount determined by the qualified biomass conversion facility using standard moisture determinations applicable to the eligible material;

(2) Total payment received, including the per dry-ton payment rate(s) matched with actual and dry weight tonnage delivered; and

(3) The qualified biomass conversion facility's certification as to the authenticity of the information.

§ 1450.105 Obligations of participant.

(a) All participants whose payment application was approved must agree to:

(1) Carry out and certify compliance with the terms and conditions of the payment application including adherence to a conservation plan, forest stewardship plan, or equivalent plan, as appropriate; and

(2) Be jointly and severally responsible, if the participant has a share of the payment greater than zero, with other contract participants for compliance with the provisions of such contract and the provisions of this part, and for any refunds or payment adjustments that may be required for violations of any of the terms and conditions of the BCAP contract and this part.

(b) [Reserved]

§ 1450.106 Payments.

(a) Payments under this subpart will be for a term not to exceed 2 years beginning the date that CCC issues the first payment, under this subpart to the participant and for each participant runs from the date that the participant receives a matching payment from CCC even though the participant may over time change facilities. The Deputy Administrator may further limit the period to reflect participation in BCAP for any time prior to October 27, 2010 as the Deputy Administrator deems appropriate. In addition, where ownership of a source of material has changed, or where it is deemed that other circumstances warrant, the Deputy Administrator may apply the time limit applicable to a person or entity or to another person or entity to assure that the 2-year limit is not avoided by private arrangement or other circumstance.

(b) Payments under this subpart will be paid at a rate of \$1 for each \$1 per dry ton provided by the qualified biomass conversion facility for the market-based sale of eligible material in an amount up to \$45 per dry ton.

Subpart C—Establishment Payments and Annual Payments

§ 1450.200 General.

(a) As provided in this subpart, establishment payments and annual payments may be provided by CCC to producers of eligible crops within a project area.

(b) [Reserved]

§ 1450.201 Project area proposal submission requirements.

(a) To be considered for selection as a project area, a project sponsor must