

## **Clarification of the Preamble for the Biomass Crop Assistance Program (BCAP) Final Rule Published on October 27, 2010**

There were several errors in the preamble to the final rule dated October 27, 2010 (75 FR 66202-66243), CCC published to implement BCAP. This document describes needed clarifications to the preamble of that final rule. The clarifications provided below do not revise or modify BACP policies and requirements established by the final rule in 7 CFR 1450.

On page 66206, in the chart titled “Conditions Where Eligible Materials will Qualify for Matching Payments,” there was a typographical error in line 8 titled “Trees and shrubs with timber, lumber or wood pulp value.” In the third column, the letter “N” should be a “Y.” So, for clarification, trees and shrubs with timber, lumber, or wood pulp value do qualify for matching payments if they are collected or harvested by separation from a higher-value product that was collected or harvested directly from the land before transport and delivery to the biomass conversion facility. On page 66210, in the second column, second paragraph, the sentence starting with Federal- or State-owned biomass, had a typographical error; the word “ineligible” should have been “eligible.” Therefore, “Federal- or State-owned biomass conversion facilities may be project sponsors, but will not be eligible to enter into a BCAP contract with CCC because neither Federal- nor State-owned land is eligible for establishment payments and annual payments.”

On page 66218, in the third column, in the section titled “Filing of False Claims (§ 1450.12)”, in the second paragraph, the email address had a typographical error. The correct email address is [usda\\_hotline@oig.usda.gov](mailto:usda_hotline@oig.usda.gov).

On page 66222, in the second column, there was a typographical error in the sentence “Eligible materials that can be attributed to the creation of black liquor are materials that were delivered principally for the manufacture of a higher-value product that is not heat, power, biobased products, or biofuels, not for the recovery of chemicals where energy is an ancillary side effect and therefore do not qualify for matching payments.” The word “not” after the word “biofuels” should be “they are not materials that are used primarily.” Therefore, “Eligible materials that can be attributed to the creation of black liquor are materials that were delivered principally for the manufacture of a higher-value product that is not heat, power, biobased products, or biofuels, they are not materials that are used primarily for the recovery of chemicals ... do not qualify for matching payments.”

On page 66227, in the first column, to conform with the rule portion, the sentence “While the same laws and other restrictions do not generally apply to privately held land, the BCAP regulation provides that provisions of the Healthy Forests Restoration Act (16 U.S.C. 6512), must be followed on private land in order for material harvested from that land to qualify for a BCAP matching payment” should have been deleted from the document. The requirement had

been deleted from the rule portion, but inadvertently the conforming change had not been made in the preamble.

On page 66232, in the Regulatory Flexibility Act section, in the first and second columns, in each of the three bullets, there was a typographical error in the abbreviation; “NIACS” should be “NAICS,” which is an abbreviation for the North American Industry Classification System.