Biomass Crop Assistance Program (BCAP) Final Rule Provisions Appear to Address Serious Concerns of the Nursery and Landscape Industry[1]

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The 2008 Farm Bill created the Biomass Crop Assistance Program (BCAP) as a primary component of the domestic agriculture, energy, and environmental strategy to reduce U.S. reliance on foreign oil, improve domestic energy security, reduce carbon pollution, and spur rural economic development and job creation. BCAP works by providing incentives to interested farmers, ranchers and forest landowners for the establishment and cultivation of biomass crops for heat, power, bio-based products and biofuels.

If it works as intended, BCAP will address a classic chicken-and-egg challenge: if commercial-scale biomass facilities are to have sufficient feedstocks, then an established, large-scale energy crop source must exist. Conversely, if profitable crop production is to occur, then a viable consumer base must exist to purchase the product.

With the enactment of the updated federal Renewable Fuels Standard, which requires 36 billion gallons of advanced biofuels in the national fuel supply by 2022, new crops must keep pace with these revised Federal targets. Many bioenergy crops need several years to become established. Many bioenergy facilities need several years to reach commercial scale. BCAP is intended to serve as catalyst to unite these multiple dynamics by reducing the financial risk for landowners who switch from familiar, revenue-generating crops to new, unconventional crops in preparation for these emerging markets.

BCAP Structure Built around Four Program Elements

The BCAP program has several elements that are intended to complement each other. First, the BCAP program creates a framework for crop producers and bioenergy producers to be able to team together to submit applications to USDA to be selected as a ***BCAP project area***.

Secondly, if selected, crop producers will be eligible for reimbursements of up to 75 percent of the cost of ***establishing a bioenergy perennial crop***. Next, producers also can receive up to five years of ***annual payments*** for grassy crops (annual or perennial), and up to 15 years of annual payments for woody crops (annual or perennial).

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[1] Prepared by the American Nursery & Landscape Association in collaboration with DC Legislative and Regulatory Services. For more information, contact Craig Regelbrugge at ANLA, 202/741-4851, cregelbrugge@anla.org, or visit www.ANLA.org.

Finally, assistance for the collection, harvest, storage and transportation of certain eligible biomass materials to biomass conversion facilities will be available for two years, per producer, in the form of ***matching payments*** for up to $45 per ton of the delivery cost to the facility.

Of Laws and Unintended Consequences

The intent behind the BCAP – use home-grown materials and ingenuity to reduce our dependence on foreign energy – is as noncontroversial as motherhood or apple pie. So far so good, right?

Well, not exactly. The nursery and landscape industry's blood pressure reached dangerous levels early in 2010 when it became apparent that federal matching payments might be made for biomass materials like softwood and hardwood bark that already have established uses and markets, such as for containerized nursery stock growing media, or landscape mulch. Federal matching funds could tip the economic balance, thereby depriving horticultural and other markets from access to materials for which there are not adequate substitutes.

After USDA published a proposed rule for implementation of the program, word began to trickle out from bark suppliers to their nursery customers that because of BCAP, supplies of bark would be tight at best, and certainly more expensive. Industry members and their associations reacted with alarm; how could the industry withstand several bark shortages, or at best absorb an abrupt price increase in such materials, at a time of severe economic strain? Fortunately, USDA put implementation of the program on hold as it sought further public input.

With a new opportunity for comment to USDA, the American Nursery & Landscape Association (ANLA) activated the Lighthouse green industry grassroots network. Hundreds upon hundreds of comment letters were generated from concerned growers, landscape professionals, and retailers. By the time it was all over, USDA received over 24,000 separate comments. Many of these came from the green industry, a testament to the value of the formal ANLA/state association grassroots partnership.

In official comments filed with USDA on April 9, 2010, ANLA pointed out that over 70 percent of the nursery crop and 100 percent of the greenhouse crop production in the U.S. is now grown in containers. Bark is the major ingredient for the growing media used in most container nursery production, and is considerably important in greenhouse crop production as well. Diversion of bark supplies for other uses, or a sharp and significant change in their market price due to market-distorting subsidies, would threaten most of the domestic nursery and greenhouse crop production industry, valued at roughly $17 billion in annual farm receipts.

Apparent Victory Means Cautious Optimism

USDA has prepared a final rule implementing the BCAP program. The rule is scheduled to be published in the *Federal Register* the week of October 25. Preliminary analysis of a prepublication copy of the rule suggests that USDA heard, loudly and clearly, the grassroots concerns expressed by ANLA and the nursery and landscape industry. In the preamble to the rule, USDA emphasizes that "*the purpose of this regulation is to provide incentives for the*

cultivation of new biomass for new markets rather than divert biomass from existing markets." The rule goes on to define higher-value products as follows:

> "*Higher value products may include, but are not limited to, products such as mulch, fiberboard, nursery media, lumber, or paper*…"

The rule explains that while materials such as bark and wood chips are generally defined as "eligible materials," they will not be eligible for federal matching payments if USDA determines that, within distinct local markets, the product is being diverted from higher-value (existing) markets.

Looking to the Future

With large and complex programs like BCAP, there are always a number of implementation devils in the many details. ANLA intends to closely and carefully review the full rule and will alert the industry of any problems or concerns the review uncovers. Meanwhile, industry members who rely on bark or related products should stay in close contact with their suppliers, and notify ANLA and state associations if it appears that such materials are being or might be diverted from established value-added markets because of BCAP payments.

Looking longer term, the industry must think about efforts to reduce its vulnerability to disruption of supplies of critical inputs like bark. One strategy is to diversify the stream of inputs that may be used for plant production. To that end, the Horticultural Research Institute launched a collaborative research project involving USDA ARS, land-grant universities and industry, to look at the development of alternative, sustainable replacements for bark in container plant substrates. This project has been underway for over two years.

ANLA wishes to express its appreciation to USDA for clarifying the intended purpose of the program, and for taking steps to address serious unintended consequences that confronted various industries including the nursery and landscape industry. Watch for updates as BCAP program implementation and related green industry research and development efforts continue.

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