

May 26, 2020

Coronavirus Food Assistance Program (CFAP) Application Period Begins Today

The United States Department of Agriculture (USDA) Farm Service Agency (FSA) will begin accepting applications for payments under the Coronavirus Food Assistance Program (CFAP) at county FSA offices today, May 26, 2020.

Program Highlights

Program and payment details are specific to agricultural commodities. Generally, payments under CFAP are available to “producers of agricultural commodities who have suffered a five-percent-or-greater price decline or who had losses due to market supply chain disruptions due to COVID-19 and face additional significant market costs.”

The CFAP payment for eligible non-specialty crops (corn, soybeans, durum wheat, hard red spring wheat, malting barley, canola, upland cotton, millet, oats, sorghum, sunflowers) will be based on a producer’s unpriced inventory (for the 2019 crop only) as of January 15, 2020, not to exceed 50 percent of total 2019 production, multiplied by the applicable payment rate for the commodity. The applicable payment rate is the sum of the CARES Act Payment Rate and CCC Payment Rate for the commodity. Note that alfalfa, forage crops, winter wheat, rye, and hemp are among those crops not currently eligible for CFAP payments.

The CFAP payment for dairy will be based on first-quarter milk production, with a single payment made based on CFAP’s two funding sources. To compensate producers for price losses, each eligible producer’s payment will be calculated by multiplying milk production (in hundredweights) in January, February, and March by \$4.71. To compensate producers for marketing channel and demand disruption during the second quarter of 2020, each eligible producer’s payment will be calculated by multiplying milk production (in hundredweights) for the months of January, February, and March by a national adjustment of 1.014 and a payment rate of \$1.47. Dumped milk produced during the months of

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January, February, and March 2020 is eligible for the payment.

The CFAP payment for cattle, hogs, and sheep (lambs and yearling sheep only) will be calculated using (i) the sum of the producer's number of livestock sold between January 15 and April 15, 2020 times a per-head payment rate and (ii) the highest inventory number of livestock between April 16 and May 14, 2020, multiplied by a per-head payment rate.

Certain specialty crops and wool are also eligible for CFAP payments at this time. Information on CFAP payments for those crops can be found [here](#).

Payment Structure

Producers will receive 80 percent of their maximum total payment (up to the payment limit discussed below) upon approval of their application for funding. The remaining portion will be paid at a later date as funds remain available.

Eligibility Requirements

Producers (persons or legal entities) are subject to an overall payment limitation of \$250,000. However, limited liability entities (corporations, LLCs, limited partnerships, etc.) may increase the payment limit to \$500,000 if two owners contribute at least 400 hours of active personal management or active personal labor, and to \$750,000 if three owners contribute at least 400 hours of active personal management or active personal labor.

Eligible producers must have an average adjusted gross income (AGI) of less than \$900,000 for tax years 2016, 2017, and 2018. However, this AGI limitation does not apply if at least 75 percent of the producer's AGI comes from farming, ranching, or forestry.

There is no requirement that producers meet Actively Engaged in Farming (AEF) requirements to receive payments under the program, but if the producer is a foreign person, the producer must provide land, capital, and a substantial amount of active personal labor to the farming operation. Eligible producers must also be in compliance with conservation requirements in the Farm Bill (i.e., the wetland conservation ("swampbuster") and highly erodible land ("sodbuster") provisions) and have no controlled substance violations.

The deadline to apply for CFAP funding is August 28, 2020.

Please contact one of the authors or your normal Michael Best attorney with any questions or for help navigating the process.

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Wisconsin Governor Tony Evers Announces \$50 Million for Payments to Farmers

On May 20, 2020, Wisconsin Gov. Tony Evers announced that the state would allocate \$50 million received by the state through the federal CARES Act to make direct payments to Wisconsin farmers.

Few details about how payments would be allocated are available at this time, but Evers' office reported that it and the state's Department of Agriculture, Trade, and Consumer Protection had engaged with

agricultural stakeholders concerning distribution of aid payments. Farmers would apply for the aid through the Wisconsin Department of Revenue.

In addition to \$50 million in direct agricultural support, Evers also committed \$15 million for a “Food Security Initiative.” The funding will help food banks, pantries, and other nonprofit organizations addressing food insecurity purchase, process, or store Wisconsin agricultural products for distribution and adapt to serving families in the current COVID-19 public health crisis.

We will continue to monitor the status of this program and will provide additional guidance once more details are available.

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