



Billing Code 3410-05-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

Notice of Funds Availability (NOFA); Market Facilitation Program (MFP)

Payments to Producers

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: MFP provides payments to producers with commodities that have been impacted by trade actions of foreign governments resulting in the loss of exports. This NOFA announces the availability of MFP funds for eligible producers of specified agricultural commodities for 2019 that include certain non-specialty crops, specialty crops, dairy, and livestock as specified in this NOFA. On behalf of the Commodity Credit Corporation (CCC), the Farm Service Agency (FSA) will administer MFP. MFP dairy and livestock payments will be calculated on the eligible production amount multiplied by the participant's share in the commodity multiplied by the MFP payment rate. MFP participants of non-specialty and specialty crops will receive an MFP payment based upon the participant's ownership interest in the 2019 crop that was planted and reported to FSA for the 2019 crop year, including cover crops that are planted for harvest following a prevented planted non-specialty crop. The payment rate used by CCC to issue payments for non-specialty crops will be on a county-by-county basis and reflects the amount of damage incurred in a county by producers of the non-specialty crops from the imposition of tariffs by other countries on U.S. agricultural products. The payment

rate for specialty crops will be on a state-by-state basis if sufficient data is available, otherwise payments will be on a national basis. This NOFA also announces the availability of 2018 MFP payments for a limited number of producers who are now eligible for assistance as the result of a provision of the Additional Supplemental Appropriations For Disaster Relief Act, 2019 (2019 Disaster Relief Act).

DATES: *Application period:* July 29, 2019 through December 6, 2019.

Comment Date: We will consider comments on the Paperwork Reduction Act that we receive by: **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: We invite you to submit comments on the information collection requirements for MFP. In your comments, include the date, volume, and page number of this issue of the *Federal Register*, and the title of this notice. You may submit comments by any of the following methods, although FSA and CCC prefer that you submit comments electronically through the Federal eRulemaking Portal:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and search for Docket ID CCC-2019-0003. Follow the online instructions for submitting comments.
- Mail: William L. Beam, Deputy Administrator, Farm Programs, Farm Service Agency, USDA, 1400 Independence Ave SW, Washington, DC 20250.

All comments received, including those received by mail, will be posted without change and publicly available on <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: William L. Beam, Deputy Administrator for Farm Programs, telephone: (202) 720-3175.

SUPPLEMENTARY INFORMATION:

Background

CCC revised 7 CFR part 1409 in a final rule published in the Rules and Regulations section of this issue of the *Federal Register* specifying the eligibility requirements, payment calculations, and application procedures for MFP. MFP provides assistance to producers with commodities that have been impacted by trade actions of foreign governments resulting in the loss of exports. This NOFA announces the availability of MFP payments for 2019 agricultural commodities.

For the purposes of MFP for 2019, agricultural commodities referred to as “non-specialty crops” include the following row crops: alfalfa hay, barley, canola, corn, crambe, dried beans, dry peas, extra-long staple cotton, flaxseed, lentils, long grain and medium grain rice, millet, mustard seed, oats, peanuts, rapeseed, rye, safflower, sesame seed, small and large chickpeas, sorghum, soybeans, sunflower seed, temperate japonica rice, triticale, upland cotton, and wheat. Specialty crops are: almonds, cranberries, cultivated ginseng, fresh grapes, fresh sweet cherries, hazelnuts, macadamia nuts, pecans, pistachios, and walnuts.

Section 103 of Title I of the 2019 Disaster Relief Act (Pub. L. 116-20) provides that if the average adjusted gross income of a person or legal entity is greater than \$900,000 the person or entity is not eligible to receive a MFP payment unless at least 75 percent of the adjusted gross income of the person or entity is derived from farming, ranching, or forestry related activities. This provision is applicable to 2018 and 2019

MFP payments and is less restrictive than the 2018 MFP eligibility provisions established by CCC. Accordingly, CCC will reopen the 2018 MFP program application process for just those producers affected by this statutory mandate and that application period will run concurrently with the 2019 MFP application period. All other provisions of the 2018 MFP apply to these newly eligible producers.

Application Process

Each eligible producer applies for MFP participation once by completing a “Market Facilitation Program 2019 (MFP 2019) Application” (form CCC-913). Each applicant must submit a complete form CCC-913 either in person, by mail, e-mail, or facsimile to an FSA county office, or online through www.farmers.gov. Producers may submit form CCC-913 in any county office nationwide for all crops for which they have an interest. Payments will not be issued until a producer certifies, as applicable, the:

- Quantity of production of dairy or hogs; and
- For non-specialty and specialty crops, the producer’s ownership share interest of the crop as specified on the “Report of Acreage” (form FSA-578) filed with FSA for each farm that is the subject of the request for payment under MFP.

Payment Rates

The MFP payment rates will be as determined by CCC and will be in effect July 29, 2019.

The non-specialty crop payment rates have been established as a single rate per acre basis for each county. These rates will be posted to FSA’s website www.fsa.usda.gov. A nationwide MFP payment rate of \$15 per acre will be used to

provide MFP assistance to producers who were prevented from planting a 2019 non-specialty crop on a farm but were able to plant a CCC approved cover crop intended for harvest. This will assist in the marketing of the anticipated lesser production of the cover crop. Prevented planting is the inability to plant the intended crop acreage with proper equipment by the USDA recognized final planting date for the crop because of a natural disaster. Cover crops that are planted for harvest following a prevented planted crop must be planted no later than August 1, 2019. Cover crops and non-specialty crops planted after August 1, 2019, are not eligible for assistance under MFP.

The total number of acres used to calculate a MFP payment on a farm is equal to 2019 planted acres of non-specialty crops, not to exceed 2018 planted acres and prevented planted acres of non-specialty crops as adjusted for acreage that is available for planting as the result of 2018 expired Conservation Reserve Program contracts.

For specialty crops, the payment will be calculated by multiplying the state per acre payment rate if sufficient data is available for the specific commodity by the producer's reported share interest in the specialty crop as reported to FSA on a FSA-578, or according to the applicable crop insurance policy. If sufficient data is not available, national data will be used. For specialty crops, only acreage with fruit or nut bearing plants will be eligible under MFP. State per acre payment rates by specific commodity will be posted to FSA's website www.fsa.usda.gov.

The payment rates and units of measure for hogs and milk will be posted to FSA's website www.fsa.usda.gov.

The payment rate will apply to the producer's total production of hogs and milk, as defined below. The MFP payment will be made after a producer certifies the amount of production for hogs and milk.

The actual production used to calculate an MFP payment under this NOFA is for 2019 production in which the applicant had an ownership share for livestock commodities. Specifically, required production information is as follows:

- For hogs, the number of head of live hogs owned on a day selected by the applicant between April 1, 2019 and May 15, 2019; and
- For milk, the historical production reported for the Dairy Margin Coverage (DMC) Program.

The ownership share for milk will be as reported to FSA for the DMC Program for dairy operations that were in business as of June 1, 2019. Dairy operations that are not in business as of June 1, 2019, are ineligible for MFP. Ownership for live hogs will be reported to FSA on form CCC-913; if a person or legal entity has a contract to grow the hogs, but does not own the hogs on a day between April 1, 2019 and May 15, 2019, the person or legal entity is ineligible for MFP.

Producers must comply with the provisions of:

- 7 CFR part 1409;
- This notice of funding availability; and
- Form CCC-913.

Production Evidence

On the application for hogs and milk, the producer will certify the amount of production and note the source of production evidence. If requested, the producer must

also provide supporting documentation as determined by CCC for the amount of production. For non-specialty crops, if requested, the producer must provide supporting documentation as determined by CCC to support the reported acreage reported on form FSA-578. For specialty crops, if requested, the producer must provide supporting documentation as determined by CCC to support the reported acreage reported on form FSA-578 or as reported to the producer's crop insurance provider.

CCC may require a producer to supply documentation that can be used to verify the actual production of hogs and milk and the producer's share in non-specialty and specialty crops. Examples of acceptable documentation include evidence provided by the participant that is used to substantiate the amount of production reported, custom harvesting records, production costs records, contemporaneous measurements, truck scale tickets, or other records that are determined acceptable by the FSA county committee.

MFP Payments

As stated in the final rule published in this issue of the *Federal Register* and in 7 CFR 1409.105(d), the payments will be provided in up to 3 payments. The first payment will be up to 50 percent of the total calculated payment. CCC will determine if any further payments are warranted. If CCC determines that a second payment is warranted, it will be up to 75 percent of the total calculated payment less the amount received in the first payment and the second payment period will begin in November 2019. If CCC determines that a final payment is warranted, it will be for the remaining amount of the total calculated payment, unless otherwise adjusted by CCC, and the last payment period will begin in January 2020.

Payment Limitation

For 2019 MFP payments, there will be 3 separate payment limitations for each person or legal entity:

1. \$250,000 for non-specialty crops announced in this NOFA;
2. \$250,000 for specialty crops announced in this NOFA; and
3. \$250,000 for hogs and milk.

No person or legal entity can receive more than \$500,000 under 2019 MFP.

Paperwork Reduction Act Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), FSA is requesting comments from interested individuals and organizations on the information collection activities related to MFP. The burden hours in this NOFA cover the additional respondents, and still use the approved numbers in the request of 0560-0292 for MFP.

To start the MFP information collection approval, FSA received emergency approval from OMB for 6 months. Upon receiving the emergency approval with a new temporary OMB control number, this information collection request will be merged with an approved information collection request of 0560-0292 to update the numbers and forms.

Title: Market Facilitation Program (MFP).

OMB Control Number: 0560-New.

Type of Request: New Collection.

Abstract: This information collection is required to support all MFP information collection activities (applicable NOFAs and the regulation in 7 CFR part 1409) to provide

eligible producers payments with respect to agricultural commodities that have been impacted by trade actions of foreign governments resulting in the loss of exports. The information collection is necessary to evaluate the application and other required paperwork for determining the producer's eligibility and assist in producer's payment calculations.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per response multiplied by the estimated total annual responses.

Public reporting burden for this information collection is estimated to average 0.39 hours per response.

Type of Respondents: Producers or farmers.

Estimated Annual Number of Respondents: 780,000.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Responses: 1,445,400.

Estimated Average Time Per Response: 0.39 hours.

Estimated Total Annual Burden on Respondents: 519,067.

FSA is requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;
and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Environmental Review

The environmental impacts for MFP have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulation for compliance with NEPA (7 CFR part 799).

As stated in the MFP final rule, the implementation of MFP and the participation in MFP do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. The final rule served as documentation of the programmatic environmental compliance decision for this federal program; therefore, CCC will not prepare additional environmental compliance documentation for this NOFA.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this NOFA applies is 10.123 - Market Facilitation Program.

Richard Fordyce,

Administrator,

Farm Service Agency.

Robert Stephenson,

Executive Vice President,

Commodity Credit Corporation.

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