



## USDA's New Direct Payments Program for Dairy Farmers

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Beginning May 26, USDA's Farm Service Agency will be accepting applications from agricultural producers who have suffered market losses. Eligible producers will receive direct payments based on a national payment rate and their own documented production.

### **Direct Payments from two different programs**

The new direct payments program requires one application and results in one benefit, but it is built with funding and legislative authority from two separate programs. This enables USDA to leverage two different sources of funds to create a larger benefit than would be possible with only funding from one program

The CARES Act provided funding for a new program, which USDA calls the Coronavirus Food Assistance Program. CFAP has two components. One is the Farmers to Families Food Box program, which uses \$3 billion to fund the preparation and distribution of emergency food boxes to be distributed by local food pantries and the like. The second is the Direct Pay

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CARES Act funds will be used to partially compensate producers for price losses from the first quarter of calendar year 2020. USDA estimates that total farm payments will be about \$9.5 billion under the CFAP program.

The long-standing Commodity Credit Corporation, a business entity within USDA, will be used for the support of production in the second quarter of 2020. Under New Deal era law, the Secretary has broad, discretionary authority to use CCC funding for various purposes, including direct payments and food assistance. USDA is allocating \$6.5 billion of its existing funds for these second quarter payments.

The CARES Act provided additional funding of \$14 billion to the CCC but these funds cannot be used before 1 July. Although USDA has not announced any additional programs, this \$14 billion provides USDA with flexibility to initiate new programs later this year.

### Payments and Timing

Although USDA is taking advantage of two different programs and funding authorities to provide direct payments for farmers, there will be one application and one payment.

USDA will make an initial payment of 80% of an eligible 2020 CFAP participant’s calculated 2020 CFAP payment. This strategy serves two purposes. It gets checks to farmers quickly, but it also gives USDA some flexibility to assess the total payments for all applicants and compare that to their statutory spending limits. Thus, the final payments (20%) may be subject to some pro-rationing to ensure that USDA does not exceed its budget.

This is different from many USDA programs, such as Dairy Margin Coverage or Dairy Revenue Protection; which are not subject to a limit on government cost.

### First Quarter CFAP Payments

For dairy producers, payments under the CFAP program will be determined by multiplying a producer’s milk production for the first quarter of calendar year 2020 by **\$4.71**. This payment rate was calculated as 80% of the decline in prices as determined by USDA during that quarter (Table 1).

Table 1. Estimated CFAP Payments for U.S. Dairy (not including payment limitations)

	Average Price, Jan 13- Jan 17 <sup>1</sup>	Average Price, Apr 6- Apr 10 <sup>1</sup>	Payment Percentage applied to Price Decline	Payment Rate (\$/cwt)	Production (cwt) (NASS data)	Gross Estimated Payments (\$1,000)
Price Loss Q. 1, 2020 (CARES)	\$17.61	\$11.72	80%	\$4.71	559,000,000	2,632,890
Price Loss Q. 2, 2020 (CCC)	\$17.61	\$11.72	25%	\$1.47	567,000,000	833,490
Total						3,466,380

<sup>1</sup> Calculated as the average of Class III (60% weight) and Class IV (40% weight) futures prices. While the all-milk price by construction will always be above the Class III and Class IV prices, the all-milk price generally follows the trend of the weighted average of 60% of the Class III price and 40% of the Class IV price.

“Milk production” will likely be established in a manner the same as was used for Dairy Margin Coverage (or Margin Protection Program). Typical documentation would be marketings of milk as verified by a cooperative or processor. Dumped milk that was pooled under a federal order will be automatically included in those reports.

## **Second Quarter CCC Payments**

Payments under the CCC Charter Act are determined by

1. an estimate of each producer’s second quarter production, which is to reflect a typical increase in production from the first to the second quarter and
2. a different payment rate that was calculated as 25% of the decline in prices as determined by USDA during the second quarter of calendar year 2020 (see Table 1).

Specifically, second quarter production will be calculated by multiplying each producer’s milk production for the first quarter of calendar year 2020 by 1.014 (the percentage change in milk production for quarter 2 compared to quarter 1, see Table 1). The payment rate is set at **\$1.47**.

## **Payment Limitations**

CFAP payments are subject to a per person (or legal entity) payment limitation of **\$250,000**. This limitation applies to the total amount of CFAP payments made with respect to all eligible commodities.

Similar to the manner in which statutory payment limitations are applied in the major commodity and disaster assistance programs administered by FSA, the total payment amount of CFAP payments attributed to an individual will be determined by taking into account the direct and indirect ownership interests of the individual in all legal entities participating in CFAP.

Different payment limits apply to LLC’s, closely held corporations or limited partnerships. These entities may receive up to \$750,000 based upon the number of owner-members (not to exceed three) who are contributing substantial labor or management with respect to the operation of the corporate entity.

## **Income Eligibility**

As is true for many other USDA programs, persons or business entities that exceed certain income limits are ineligible for any payments.

A person (or legal entity), other than a joint venture or general partnership, is ineligible for payments if the person’s or legal entity’s average adjusted gross income (AGI), using the average of the adjusted gross incomes for the 2016, 2017 and 2018 tax years, is more than \$900,000, unless at least 75% of that person’s or legal entity’s average AGI is derived from

farming, ranching, or forestry-related activities. In other words, very large farm businesses are not eligible unless that farm business is the owners' primary source of income.

If at least 75% of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to receive CFAP payments up to the applicable payment limitation noted above.

With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

### **Example Initial Benefit Calculations**

Example 1)

200 cows with 1,200,000 pounds of production in Q1, 2020

$$= ((12000\text{cwt} \times \$4.71) + (12000\text{cwt} \times 1.014 \times \$1.47)) \times 80\% = \mathbf{\$59,526}$$

Example 2)

800 cows with 5,000,000 pounds of production in Q1, 2020

$$= ((50000\text{cwt} \times \$4.71) + (50000\text{cwt} \times 1.014 \times \$1.47)) \times 80\% = \mathbf{\$248,023}$$

Example 3)

3000 cows with 19,500,000 pounds of production in Q1, 2020,

LLC with 3 materially involved shareholders

$$= ((195000 \times \$4.71) + (195000\text{cwt} \times 1.014 \times \$1.47)) \times 80\% = \mathbf{\$750,000}$$

*BUT, this farm's payment will be capped at \$250,000 per shareholder*

### **Additional Questions**

As is always true, the Farm Services Agency is the final arbiter of how this program works and how producers can apply. Any information provided here is our best effort to faithfully interpret the announced rules, but any discrepancy or misunderstanding is our error and in no way binding on USDA.

USDA will be providing a CFAP payment calculator with which producers and growers can estimate payments and pre-populate the application for payment—form AD-3314—once signup begins. Additional information, including a video preview of the payment calculator, is available at <https://www.farmers.gov/cfap>

