



DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

[Docket ID FSA-2024-0011]

Notice of Funds Availability (NOFA); Marketing Assistance for Specialty Crops

AGENCY: Commodity Credit Corporation and Farm Service Agency, U.S. Department of Agriculture (USDA).

ACTION: Notification of funds availability.

SUMMARY: The Farm Service Agency (FSA) is announcing the availability of Marketing Assistance for Specialty Crops (MASC), which will provide eligible specialty crop producers with marketing assistance payments that will help them engage in activities that aid in expanding domestic specialty crop markets or in developing new markets for their specialty crops.

DATES: *Applications Due Date:* We will accept applications from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through [INSERT DATE 29 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Kathy Sayers; telephone: (202) 720-6870; email: Kathy.Sayers@usda.gov. Individuals with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720-2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION:

Background

Specialty crop growers have typically faced higher marketing costs relative to non-specialty crop producers due to the tenderness and perishability of fruits, vegetables,

floriculture, nursery crops, and herbs. They must invest in specialized handling and transport equipment that control for temperature and humidity, invest in packaging equipment and materials that prevent damage to commodities, and confront the need to get perishable products to market quickly. They also face labor costs that are nearly 45 percent of total variable¹ costs—far higher than the 9 percent average across all the agricultural sector.² Labor costs have increased steadily in recent years and input costs, in general, remain elevated in comparison with pre-pandemic levels.³

Specialty crop operations have limited ability to pass along these high labor, input (seed, fertilizer, pesticide), and marketing costs to retailers or consumers given global competition for markets. Further, cash receipts for fruits and nuts—which reflect the income from sales of those specialty crops to purchasers—are down. For example, fruit and nut cash receipts⁴ in calendar year 2024 are 25 percent below the previous inflation-adjusted 10-year average—a greater reduction over that 10-year period than for any commodity grouping other than tobacco. In contrast, for crops overall (including corn, soybeans, etc.), cash receipts in 2024 are forecast up 10 percent relative to the 10-year inflation-adjusted average.⁵

High costs—combined with lower cash receipts—have, in many cases, reduced net cash farm income (NCFI),⁶ especially among operations that do not have the ability to take advantage of economies of scale. Data from a USDA survey of farm operators

¹Variable costs are out-of-pocket expenses that change in proportion to how much of a commodity is produced.

²USDA, Economic Research Service. 2022 Agricultural Resource Management Survey (ARMS) data.

³Coppess, Jonathan. “Measuring Farm Policy, Part 4: Basic Input Costs and Payments.” *farmdoc daily* (14):66. April 4, 2024. <https://farmdocdaily.illinois.edu/2024/04/measuring-farm-policy-part-4-basic-input-costs-and-payments.html>.

⁴Cash receipts reflect the gross income from the sale of a commodity during a given calendar year. U.S. Department of Agriculture, Economic Research Service. (2024, September 5). “Farm Income and Wealth Statistics.”

⁵U.S. Department of Agriculture, Economic Research Service. (2024, September 5). “Farm Income and Wealth Statistics.”

⁶NCFI is defined as cash receipts from farming as well as cash farm-related income (including Federal Government payments) minus cash expenses.

shows NCFI for specialty crop growers in 2022 was 11 percent below the average for the previous 10 years, and 4.6 percent below 2021 reported levels. For small-scale growers (those with less than \$100,000 in NCFI and the least able to take advantage of economies of scale), the situation is even more dire: NCFI has been negative for 3 of the 5 years between 2018 and 2022.⁷

Specialty crops are important from an economic perspective to many states, as illustrated by the 2022 Census of Agriculture.⁸ For 127 counties (or county equivalents), specialty crop farms accounted for more than 40 percent of all farms within the county. Most of these counties are in states along the west and east coasts (including Alaska and Hawaii) and in or near metropolitan areas. Half of the counties with the highest concentration of farms primarily engaged in growing specialty crops were in California, New York, Florida, and New Jersey.⁹ Specialty crops form the backbone of the agriculture sector in such states and, as a result, maintaining grower viability is important for those states' economies.

Expanding domestic markets and increasing U.S. consumption of fruits and vegetables to improve diets is also a critical impetus for providing assistance under MASC. Fruits and vegetables supply energy, nutrients, and fiber—all of which contribute to greater health. A diet rich in vegetables and fruits can lower blood pressure, reduce the risk of heart disease and stroke, prevent some types of cancer, lower risk of

⁷Economic Research Service and National Agricultural Statistics Service, Agricultural Resource Management Survey (ARMS), "Tailored reports: Farm Structure and Finance" data product available at <https://my.data.ers.usda.gov/arms/tailored-reports>.

⁸The information in this paragraph is from USDA, National Agricultural Statistics Service. "2022 Census of Agriculture: Most U.S. Counties with High Concentration of Specialty Crop Farms are Located along Coasts." <https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=109079#:~:text=Half%20of%20the%20counties%20with,farm%20growing%20primarily%20specialty%20crops>.

⁹In California, 8 of the top 10 commodities for cash receipts are specialty crops. In Florida and New Jersey, 5 of the top 10 commodities in terms of cash receipts are specialty crops. For New York, 2 of the top 10 commodities in terms of cash receipts are specialty crops. See the USDA, Economic Research Service Farm Income and Wealth Statistics, Cash Receipts by State: https://data.ers.usda.gov/reports.aspx?ID=17843#Pc9e3d09f30b1439aa5787fc201b399ae_5_17iT0R0x22.

eye and digestive problems, and have a positive effect upon blood sugar.¹⁰ While Americans are consuming more fruits and vegetables than in 1970, the average U.S. diet still falls short of the recommendations in the “2020–2025 Dietary Guidelines for Americans”¹¹ for these major food groups. Fruit and vegetable per capita consumption are at only 40 percent and 70 percent, respectively, of the recommendation levels found in the Dietary Guidelines. Increasing the domestic consumption of specialty crops benefits consumers and can expand U.S. specialty crop markets. MASC payments are being provided in order to expand existing markets and develop new markets. As a result of such market expansion, specialty crop consumption is expected to increase. With greater consumption, and a greater focus on healthy eating, sector profitability is also expected to improve over the long term.

Other factors complicate the viability of the sector further, as noted in an October 2024 Congressional Research Service (CRS) report.¹² Specifically, pandemic-era supply chain disruptions and higher input costs have contributed to increased market volatility since 2020. Further, the increase in disaster events has exacerbated uncertainty and the likelihood that disruptions affect farm losses, and potentially consumer access to specialty crops. Small-scale specialty crop growers (those with less than \$100,000 in sales per year) are less able to take advantage of economies of scale than larger growers, and small-scale growers often have the greatest marketing and related challenges (such as outreach, advertising, and the need for refrigerated trucks).

¹⁰Harvard T.H. Chan School of Public Health. “The Nutrition Source: Vegetables and Fruits.” Accessed October 9, 2024. <https://nutritionsource.hsph.harvard.edu/what-should-you-eat/vegetables-and-fruits/>

¹¹U.S. Department of Agriculture and the U.S. Department of Health and Human Services. “Dietary Guidelines for Americans, 2020-2025.” https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf

¹²Johnson, Renee. “Marketing and Pricing in the U.S. Fruit and Vegetable Industry.” Congressional Research Service. October 4, 2024. <https://crsreports.congress.gov/product/pdf/R/R48213>.

In response to these economic and health-based factors, USDA will use section 5(e) of the Commodity Credit Corporation (CCC) Charter Act (7 U.S.C. 714c(e)) to make payments to eligible producers in order to increase consumption of specialty crops by aiding expansion of domestic markets or aiding in the development of new and additional markets. Without intervention to support producers' activities to expand domestic markets and develop new and additional markets for their specialty crops in calendar year 2025, high marketing costs and challenges may be a barrier to such expansion and development in 2025, which may result in the exit of many operations, reducing domestic availability of fruits, vegetables, and other specialty crops, to the detriment of many local economies. Further, assistance to this sector will create additional market opportunities, including those for local foods, such as setting up farmer's markets near the geographic area of production.

FSA will administer MASC on behalf of CCC. MASC payments will provide eligible specialty crop producers with marketing assistance that gives them the ability to engage in activities that aid in expanding domestic specialty crop markets or in developing new markets for their crops, such as outreach, marketing, and investing in packaging, storage, and transportation equipment and supplies that are necessary to protect perishable specialty crops. MASC will use up to \$2 billion¹³ in CCC funding to provide assistance to producers of specialty crops, subject to a payment limitation of \$125,000. MASC payments are based on a producer's sales of specialty crops, as described below, and adjustments will be made to ensure that payments do not exceed the available funding.

¹³Funding of \$1,886,000,000 is available for MASC after sequestration of 5.7 percent. Individual MASC payments will not be subject to further sequestration.

Definitions

The following definitions apply to this notice:

Average adjusted gross farm income means the average of the person or legal entity's adjusted gross income (AGI) derived from farming, ranching, and forestry operations, including losses, for the base period consisting of the 2021, 2022, and 2023 tax years.

If the resulting average adjusted gross farm income derived from items 1 through 12 of the definition of income derived from farming, ranching, and forestry operations is at least 66.66 percent of the average AGI of the person or legal entity, then the average adjusted gross farm income may also take into consideration income or benefits derived from the following:

- (1) The sale, trade, or other disposition of equipment to conduct farm, ranch, or forestry operations; and
- (2) The provision of production inputs and production services to farmers, ranchers, foresters, and farm operations.

For legal entities not required to file a Federal income tax return, or a person or legal entity that did not have taxable income in 1 or more tax years during the base period, the average will be the adjusted gross farm income, including losses, averaged for the 2021, 2022, and 2023 tax years, as determined by FSA. A new legal entity will have its adjusted gross farm income averaged only for those years of the base period for which it was in business; however, a new legal entity will not be considered "new" to the extent it takes over an existing operation and has any elements of common ownership interest and land with the preceding person or legal entity from which it took over. When there is such commonality, income of the previous person or legal entity will be averaged with that of the new legal entity for the base period. For a person filing a joint tax return, the certification of average adjusted gross farm income may be reported as if the person had

filed a separate Federal tax return and the calculation is consistent with the information supporting the filed joint return.

Average AGI means the average of the adjusted gross income as defined under 26 U.S.C. 62 or comparable measure of the person or legal entity. The relevant tax years for the 2025 program year are 2021, 2022, and 2023.

Crop year means:

(1) For insured crops, the crop year as defined according to the applicable Federal crop insurance policy; and

(2) For NAP-covered crops, the crop year as defined in 7 CFR 1437.3.

Deputy Administrator means the FSA Deputy Administrator for Farm Programs.

Farming operation means a business enterprise engaged in the production of agricultural products, commodities, or livestock, operated by a person, legal entity, or joint operation. A person or legal entity may have more than one farming operation if the person or legal entity is a member of one or more legal entity or joint operation.

Federal crop insurance means an insurance policy reinsured by the Federal Crop Insurance Corporation administered by RMA under the provisions of the Federal Crop Insurance Act (7 U.S.C. 1501-1524), as amended. It does not include private plans of insurance.

Federal crop insurance indemnity means the payment to a participant for crop losses covered under Federal crop insurance administered by RMA in accordance with the Federal Crop Insurance Act.

Floriculture means the commercial production of flowers and cut greenery that are field-grown or grown in a controlled environment, including those planted in containers or other growing mediums.

Fruit means the edible reproductive body of a seed plant or tree nut (such as apple, orange, and almond) such that fruit means the harvestable or harvested part of a plant developed from a flower.

Income derived from farming, ranching, and forestry operations means income of a person or legal entity derived from:

- (1) Production of crops and unfinished raw forestry products;
- (2) Production of livestock, aquaculture products used for food, honeybees, and products derived from livestock;
- (3) Production of farm-based renewable energy;
- (4) Selling (including the sale of easements and development rights) of farm, ranch, and forestry land, water or hunting rights, or environmental benefits;
- (5) Rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;
- (6) Processing, packing, storing, and transportation of farm, ranch, or forestry commodities including for renewable energy;
- (7) Feeding, rearing, or finishing of livestock;
- (8) Payments of benefits, including benefits from risk management practices, Federal crop insurance indemnities, and catastrophic risk protection plans;
- (9) Sale of land that has been used for agricultural purposes;
- (10) Benefits (including, but not limited to, cost-share assistance and other payments) from any Federal program made available and applicable to payment eligibility and payment limitation rules, as provided in 7 CFR part 1400;
- (11) Income reported on IRS Schedule F or other schedule, approved by the Deputy Administrator for Farm Programs, used by the person or legal entity to report income from such operations to the IRS;

(12) Wages or dividends received from a closely held corporation, an Interest Charge Domestic International Sales Corporation (IC-DISC), or legal entity comprised entirely of family members when more than 50 percent of the legal entity's gross receipts for each tax year are derived from farming, ranching, and forestry activities as defined in this document; and

(13) Any other activity related to farming, ranching, or forestry, as determined by the Deputy Administrator.

IRS means the Department of the Treasury, Internal Revenue Service.

Legal entity means a corporation, joint stock company, association, limited partnership, limited liability company, irrevocable trust, estate, charitable organization, general partnership, joint venture, or other similar organization created under Federal or State law including any such organization participating in a business structure as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization. A business operating as a sole proprietorship is considered a legal entity.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and 7 CFR part 1437.

Nursery crops means decorative or nondecorative plants grown in a container or controlled environment for commercial sale.

Ownership interest means to have either a legal ownership interest or a beneficial ownership interest in a legal entity. For the purposes of administering MASC, a person or legal entity that owns a share or stock in a legal entity that is a corporation, limited liability company, limited partnership, or similar type entity where members hold a legal ownership interest and shares in the profits or losses of such entity is considered to have an ownership interest in such legal entity. A person or legal entity that is a beneficiary of

a trust or heir of an estate who benefits from the profits or losses of such entity is also considered to have a beneficial ownership interest in such legal entity.

Person means an individual who is a natural person and does not include a legal entity.

Production inputs mean material to conduct farming operations, such as seeds, chemicals, and fencing supplies.

Production services mean services provided to support a farming operation, such as custom farming, custom feeding, and custom fencing.

United States means all 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

USDA means the U.S. Department of Agriculture.

Vegetable means the edible part of an herbaceous plant (such as cabbage or potato) or fleshy fruiting body of a fungus (such as white button or shiitake) grown for an edible part such that vegetable means the harvestable or harvested part of any plant or fungus whose fruit, fleshy fruiting bodies, seeds, roots, tubers, bulbs, stems, leaves, or flower parts are used as food and includes mushrooms, sprouts, and herbs (such as basil or cilantro).

Specialty Crops

For MASC, “specialty crop” includes only the following crops:

- fruits, including, but not limited to, dried fruits;
- vegetables, including, but not limited to, dry edible beans and peas, mushrooms, and vegetable seed;
- tree nuts;
- nursery crops;
- Christmas trees;

- floriculture;
- culinary and medicinal herbs and spices;
- honey;
- hops;
- maple sap;
- tea;
- turfgrass; and
- grass seed.

Common examples of specialty crops can be found at

https://www.ams.usda.gov/sites/default/files/media/USDA_Specialty_Crop_Definition.pdf.

The following crops are not specialty crops for MASC:

- field and grain crops, such as amaranth (for grain), barley (including malting barley), buckwheat, corn (other than sweet corn), millet, oats, quinoa, rice, rye, sorghum, triticale, wheat, and wild rice);
- forage, hay, and cover crops, such as alfalfa, birdsfoot trefoil, clover, hay, grasses, mixed forage, perennial peanuts, sunn hemp, and vetch;
- oilseed crops, such as camelina, canola, crambe, flax, flaxseed, linseed, mustard seed, rapeseed, safflower, sesame, soybeans, and sunflower seed;
- other crops such as cotton, cottonseed, hemp, kochia (prostrata), lespedeza, milkweed, peanuts, primrose, seed of ineligible crops (other than grass seed), sugar beets, sugarcane, tobacco, and crops with an intended use of fallow, forage, grazing, green manure, or left standing; and
- other agricultural products such as aquatic animal species (such as fish and shellfish), dairy products, eggs, livestock products, and tofu.

Eligible Producers

To be eligible for MASC, a producer must be in the business of farming at the time of application and be entitled to an ownership share and share in the risk of producing a specialty crop that will be sold in calendar year 2025. To be considered in the business of farming at the time of application, a producer must have an active business operation with assets and resources needed to grow, harvest, and market a specialty crop in calendar year 2025. Producers who previously grew a specialty crop but have ceased operation at the time of application (for example, through the sale of land and equipment needed to produce a crop) are not eligible for MASC.

In addition, consistent with other FSA assistance programs, a producer must be one of the following to be eligible:

- Citizen of the United States;
- Resident alien, which for purposes of MASC means “lawful alien” as defined in 7 CFR 1400.3;
- Partnership organized under State law;
- Corporation, limited liability company, or other organizational structure organized under State law;
- Indian Tribe or Tribal organization, as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304); or
- Foreign person or foreign entity who meets all requirements as described in 7 CFR part 1400.

The regulations in 7 CFR part 1400, subpart E, are applicable to foreign persons and legal entities (foreign and domestic) containing members, stockholders, or partners who are not U.S. citizens or resident aliens that own more than 10 percent of the legal entity.

Federal, State, and local governments, including public schools, are not eligible for MASC payments.

Eligible Specialty Crop Sales and Required Documentation

MASC payments are based on a producer's total specialty crop sales in calendar year 2023 or 2024 (except for new producers, as described below) because the amount of sales reflects a producer's existing market and operation size, which impacts their ability to take advantage of economies of scale. Marketing economies of scale are achieved when an operation has the ability to spread marketing costs, such as advertising, over larger outputs. In lieu of a complex production-based calculation, FSA is using prior year sales as an alternative indicator of output, which simplifies the application process by using information that is easily determined by producers. Using prior year sales as a proxy for output to calculate MASC assistance provides specialty crop growers with additional resources to address increased marketing costs associated with expanded or new markets which directly impacts their ability to realize greater economies of scale.

Eligible specialty crop sales only include sales of commercially marketed raw specialty crops grown in the United States by the producer. The portion of sales derived from adding value to a specialty crop, such as sorting, processing, or packaging, is not included in a producer's eligible sales. For example, the eligible sales for a producer who grows cucumbers and sells raw cucumbers and cucumber pickles at a local farmer's market would be the sales of raw cucumbers sold at the market plus the raw value of the cucumbers used in the pickles. The value of the cucumbers used in the pickles would be determined by multiplying the quantity of cucumbers processed into pickles by the price of raw cucumbers sold at the market. Sales of specialty crops purchased for resale may be included only if there is a change in characteristic due to the time held (for example, a 2-inch plant that was sold as an 18-inch plant after 4 months). Eligible producers who market their specialty crops through a subscription or membership-based service, such as a community-supported agriculture (CSA) model, may include the portion of the membership or subscription fees received for specialty crops in their eligible sales.

MASC is providing assistance to specialty crop producers in order to increase domestic consumption of such crops, which is intended to expand domestic specialty crop markets or develop new markets for such crops in 2025; therefore, MASC assistance will be based on a producer's anticipated sales in the 2025 calendar year. For most producers, FSA will use a producer's specialty crop sales in calendar year 2023 or 2024 as a proxy for expected specialty crop sales in the 2025 calendar year. Allowing producers to choose between 2023 and 2024 calendar year sales is intended to provide flexibility for producers who had reduced sales in one of those years due to disaster events or other impacts such as price fluctuations or loss of markets.

For producers who grew and sold specialty crops in either the 2023 or 2024 calendar year, for the purpose of calculating payments under MASC, the total specialty crop sales certified on the MASC application will be equal to one of the following, as elected by the producer:

- 2023 calendar year sales of specialty crops, plus Federal crop insurance indemnities and NAP payments for such specialty crops for the 2023 crop year; or
- 2024 calendar year sales of specialty crops, plus Federal crop insurance indemnities and NAP payments for such specialty crops for the 2024 crop year.

To be considered a 2023 or 2024 calendar year sale, the producer must have received payment for the specialty crop during the applicable calendar year. Federal crop insurance indemnities and NAP payments for the 2023 or 2024 crop year will be included for 2023 or 2024, respectively, regardless of when they were received by the producer, and are included in eligible sales to more accurately represent what a producer would expect to sell in calendar year 2025 by taking into account crops that would have been

sold in the selected year if not for losses due to disaster events covered by Federal crop insurance and NAP.

If requested by FSA, producers must provide documentation to substantiate their reported 2023 or 2024 calendar year sales and Federal crop insurance indemnities.¹⁴

Acceptable documentation must show the crop, quantity sold, and the dollar amount received. Acceptable documentation to substantiate total specialty crop sales includes, but is not limited to:

- sales receipts;
- sales records;
- ledgers of income;
- contract or sales agreements;
- income statements of deposit slips;
- register tapes with supporting documentation acceptable to FSA;
- purchase orders;
- third party processor or distributor statements;
- contemporaneous diaries that are determined acceptable by USDA,
- other sales documents indicating the crop was sold; and
- IRS Schedule F accompanied by documentation to support that the reported amounts are from sales of specialty crops.

If requested by FSA, the producer must also provide acceptable evidence that the producer grew and harvested the crop and was in the business of farming at the time of application. Such evidence may include, but is not limited to:

- acreage reports;
- land use records, such as lease agreements or ownership records;

¹⁴Producers are not required to submit documentation of 2023 or 2024 crop year NAP payments included in their eligible sales because FSA has that information on file.

- field inspection or certification records, such as reports from organic certification inspections or other third party inspections;
- shipping or transportation receipts;
- packaging or processing records;
- photographic evidence;
- Federal crop insurance records;
- NAP records;
- labor records;
- records of agricultural inputs, such as seed, fertilizer, and pesticides;
- contemporaneous harvest records; and
- invoices for custom harvesting.

Producers must submit requested documentation to FSA within 15 days of the request.

FSA is allowing certain producers (collectively referred to as “new producers”) to use an estimate of their 2025 calendar year specialty crop sales, in lieu of actual 2023 or 2024 calendar year sales, if the producer:

- Began producing specialty crops in 2023 or 2024 but did not have sales due to the immaturity of the crop;
- Began producing specialty crops in 2024 but did not have a complete year of sales; or
- Is beginning to grow specialty crops in 2025.

New producers have no or limited sales and will need to develop new markets for their specialty crops in order to be successful, and MASC payments are intended to provide assistance to these producers that will help them create or develop markets for their specialty crops in calendar year 2025. To be eligible for MASC, a new producer must have one of the following:

- A legally binding contract or agreement wherein the producer has agreed to sell a specialty crop during calendar year 2025; or
- Evidence that, at the time of application, a specialty crop has been planted and is expected to be harvested and sold in the 2025 calendar year.

All new producers must provide acceptable documentation that shows the producer is in the business of farming at time of application and intends to sell a specialty crop in the 2025 calendar year. Expected 2025 sales must be based on realistic projections that are supported by acceptable documentation demonstrating the producer's ability to achieve the expected sales and their ability to grow, harvest, and market the expected yield or inventory. For new producers who have entered into a legally binding sales contract or purchase agreement for the sale of their specialty crop, their 2025 expected specialty crop sales must be based on the terms of their contract or agreement regarding the total sale amount or the price and amount of inventory or production. For new producers who are growing a specialty crop intended for sale in 2025 who do not have a contract or agreement, their expected 2025 specialty crop sales must be based on their specialty crop acreage or inventory that is planted at the time of application and published yields and prices such as Federal Crop Insurance Corporation-established data, FSA-established National Crop Table data, and National Agricultural Statistic Service data, or published local data sources.

New producers must submit form FSA-1141, Marketing Assistance for Specialty Crops (MASC) New Producer Expected Sales Worksheet, and provide documentation to substantiate their expected 2025 calendar year sales by **[INSERT DATE 29 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Payment Factors and Calculation

FSA will calculate MASC payments based on the producer's total specialty crop sales for the calendar year elected by the producer (either 2023 or 2024, or expected 2025

sales for new producers), as described above. The total specialty crop sales reported by the producer will be separated into the sales ranges shown in Table 1. The sales ranges are based on the traditional Agricultural Resource Management Survey (ARMS) groupings.¹⁵

After the end of the application period, FSA will determine a percent payment factor for each sales range (referred to as “a” through “e” in Table 1). These factors are necessary to ensure that payments do not exceed the \$2 billion in allocated funding. The factors will depend on the number of eligible MASC applicants, the total sales reported by those applicants for each sales range, and the payment limitation per person or legal entity. Therefore, factors are unknown and cannot be determined until after the application period closes.

In order to streamline MASC assistance and provide payments quickly, FSA will use the CFAP 2 modelling approach to develop MASC percent payment factors; the CFAP 2 approach relied on statistical analysis of the ratio of variable costs per farm to sales per farm.^{16, 17} According to general convention, a farm’s expenses per unit of production or sales tends to decrease as farm size increases.¹⁸ Larger farms tend to have lower costs of production per unit of sales; hence, MASC payments as a share of total

¹⁵ARMS is the U.S. Department of Agriculture's primary source of information on the production practices, resource use, and economic well-being of America’s farms and ranches. See <https://www.ers.usda.gov/data-products/arms-farm-financial-and-crop-production-practices/> for more information.

¹⁶Coronavirus Food Assistance Program 2 Cost-Benefit Analysis (September 15, 2020), available at <https://www.regulations.gov/document/FSA-2020-0006-0002>.

¹⁷The second through fourth sales range groupings in Table 1 are the traditional groupings used by USDA to summarize ARMS data by farm size. However, for sales values per farm of \$49,000 or less, the USDA data summaries are further broken down into \$9,999 or less and \$10,000 to \$49,999; for sales of \$100,000 to \$499,999 the USDA sales summaries were further broken down into \$100,000 to \$249,999 and \$250,000 to \$499,000; and for sales values of \$1,000,000 or more, into \$1,000,000 to \$4,900,000 and \$5,000,000 or more. For CFAP 2, USDA collapsed the lower two, middle two, and upper two ranges into one range each in order to simplify the payment design.

¹⁸The decrease in costs of production per unit of output or sales as farm size increases is known as economies of scale, see for example, C. Morrison Paul, R. Nehring, D. Banker, and A. Somwaru. 2004. “Scale Economies and Efficiency in U.S. Agriculture: Are Traditional Farms History?” *Journal of Productivity Analysis* vol 22: pp 185-205; Gardner, B. 2002. “American Agriculture in the Twentieth Century: How it Flourished and What it Cost,” Harvard University Press.

sales fall as sales per farm increase. The regression analysis used for CFAP2 confirmed that the ratio of variable expenses to sales decreases as farm size (sales range) increases.

As explained in more detail below, the predicted ratio of variable expenses to sales per farm for each sales class determines the relationship between the payment rates for each of the five sales ranges. Information on the number of farms and sales per farm in each sales range, and on applicants hitting the payment limit, will be used to re-adjust the payment rates for each range so that total payments stay within the \$2 billion. As a result, estimated payment factors will likely differ than those shown as examples in Table 2.

Note that estimated payment factors for each sales range automatically adjust per the mathematical equations that maintain the ratio between each payment factor and the predicted variable expenses to sales per farm. For example, as the number of eligible producers increases, the \$2 billion will be distributed across more producers, causing the payment factors for each sales range to decrease.

The payment factors will decrease as the sales range increases, meaning the first sales range (up to \$49,999) will have the largest factor and the fifth sales range (all sales over \$1 million) will have the smallest payment factor. While the actual payment factors cannot be determined before the end of the application period, Table 2 provides examples of estimated payment factors for four scenarios.¹⁹ The second column contains the ratio of variable costs to sales per farm that was predicted from the statistical analysis used for CFAP2, which will also be used for MASC. The 57,000 applications in the third column

¹⁹The examples of MASC payment factors for each sales range are based on CFAP 2 program data for specialty crop producers. Therefore, the data represent those producers who self-selected and applied for CFAP 2 and do not necessarily represent those specialty crop producers who may apply for MASC. While CFAP 2 was similar to MASC in terms of producer and specialty crop eligibility, estimated MASC payment factors extrapolated from CFAP 2 data are shown only as illustrative examples and final payment factors will be announced in a news release and may be different from those shown here. To develop the scenarios for Table 2, the 57,000 CFAP 2 applications were assumed to provide an estimate of the minimum number of applicants. Higher applicant scenarios (up to 227,000 applicants) were developed while preserving the underlying distribution of the CFAP 2 data. For the sake of simplicity, the examples in Table 2 do not account for payment limitations per person or legal entity.

are the number of specialty crop farms (from ARMS) that applied for the CFAP 2 program design, with applications in the three successive columns being multiples, and the applications in the last columns being roughly the numbers of specialty crops farms in the 2022 Census of Agriculture. Each column of payment factors assumes the same \$2 billion in total payments.

As shown in Table 2, the second column is essential to determining the other table values. If the variable costs to sales ratio in the first row of numbers (for example, 0.903) is divided by that in the second row (for example, 0.849), then it yields a ratio that is approximately equal to the payment factor relationships between the first and second sales category rows (for example, 11.3 divided by 10.6).²⁰ This relationship holds across all rows and columns. The factors are expected to range between 2 to 11 percent, depending on the number of potential applications but could go higher or lower depending on how many eligible producers apply.

Table 1—Sales Ranges

Sales Range	Percent Payment Factor
Up to \$49,999	<i>a</i>
\$50,000-\$99,999	<i>b</i>
\$100,000-\$499,999	<i>c</i>
\$500,000-\$999,999	<i>d</i>
All sales over \$1 million.....	<i>e</i>

Table 2—Estimated Payment Factor Examples Assuming \$2 Billion in Payments

Sales Range	Predicted Ratio of Variable Costs to Sales per Farm	Example of Estimated Percent Payment Factors			
		57,000 Applicants	113,000 Applicants	170,000 Applicants	227,000 Applicants
Up to \$49,999.....	0.903	11.3	5.7	3.8	2.8
\$50,000-\$99,999 ..	0.849	10.6	5.3	3.6	2.7

²⁰For any given pair of rows, differences across the columns between the ratios of the pair of rows is due to rounding error in moving from the computer software’s level of precision to the one decimal place used in the actual payment rates.

\$100,000- \$499,999.....	0.826	10.3	5.2	3.5	2.6
\$500,000- \$999,999.....	0.771	9.6	4.9	3.2	2.4
All sales over \$1 million.....	0.748	9.3	4.7	3.1	2.3

To calculate a producer's MASC payment, FSA will:

- (1) Multiply the amount of sales in each range in Table 1 by the corresponding percent payment factor for that range; and
- (2) Calculate the sum of the results for each sales range.

For example, if a producer reported \$450,000 of total specialty crop sales for their elected year, FSA would calculate a payment equal to the sum of the following:

- \$49,999 (the amount of sales in the first range) multiplied by percent payment factor *a*;
- \$50,000 (the amount of sales in the second range) multiplied by percent payment factor *b*; and
- \$350,001 (the amount of sales in the third range) multiplied by percent payment factor *c*.

Payments are subject to a payment limitation of \$125,000, as described below.

FSA will issue MASC payments after the end of the application period. If demand for MASC payments exceeds available funding, either MASC payments may be prorated, the payment limitation may be lowered, or both. If proration or a reduction of the payment limitation is necessary, the reduction or lowered payment limitation will apply equally to all MASC participants. If additional funding remains available after MASC payments are issued and any appeals and requests for equitable relief have been resolved, FSA may issue an additional payment.

Average AGI Limitation and Payment Limitation

A person or legal entity, other than a joint venture or general partnership, will not be eligible to receive, directly or indirectly, a MASC payment if the average adjusted gross income of the person or legal entity exceeds \$900,000 for 2021, 2022, and 2023, unless the person or legal entity's average adjusted gross farm income is at least 75 percent of their average AGI.

A person or legal entity, other than a joint venture or general partnership, cannot receive, directly or indirectly, more than \$125,000 in MASC payments. This payment limitation is consistent with the payment limitation used in other FSA programs such as the Agriculture Risk Coverage and Price Loss Coverage programs, the Livestock Forage Disaster Program, NAP at the basic coverage level, and the Rice Production Program.

A payment made to a legal entity will be attributed to those members who have a direct or indirect ownership interest in the legal entity, unless the payment of the legal entity has been reduced by the proportionate ownership interest of the member due to that member's ineligibility.

Attribution of payments made to legal entities will be tracked through four levels of ownership in legal entities²¹ as follows:

- First level of ownership—any payment made to a legal entity that is owned in whole or in part by a person will be attributed to the person in an amount that represents the direct ownership interest in the first level or payment legal entity²²;

²¹Attribution of payments through four levels of ownership in legal entities is consistent with the approach used in other FSA programs specified in 7 CFR 1400.1.

²²The "first level or payment legal entity" means that the payment entity will have a reduction applied, and if the payment entity happens to be a joint venture, that reduction is applied to the first level, or highest level, for payments. The "first level or payment legal entity" is the highest level of ownership of the applicant to whom payments can be attributed or limited. If the applicant is a business type that does not have a limitation or attribution, the reduction is applied to the first level, but if the business type can have the reduction applied directly to it, then the limitation applies.

- Second level of ownership—any payment made to a first-level legal entity that is owned in whole or in part by another legal entity (referred to as a second-level legal entity) will be attributed to the second-level legal entity in proportion to the ownership of the second-level legal entity in the first-level legal entity; if the second-level legal entity is owned in whole or in part by a person, the amount of the payment made to the first-level legal entity will be attributed to the person in the amount that represents the indirect ownership in the first-level legal entity by the person;
- Third and fourth levels of ownership—except as provided in the second level of ownership bullet above and in the fourth level of ownership bullet below, any payments made to a legal entity at the third and fourth levels of ownership will be attributed in the same manner as specified in the second level of ownership bullet above; and
- Fourth-level of ownership—if the fourth level of ownership is that of a legal entity and not that of a person, a reduction in payment will be applied to the first-level or payment legal entity in the amount that represents the indirect ownership in the first level or payment legal entity by the fourth-level legal entity.

Payments made directly or indirectly to a person who is a minor child will be combined with the earnings of the minor's parent or legal guardian.

A person or legal entity must provide the name, address, valid taxpayer identification number, and ownership share of each person, or the name, address, valid taxpayer identification number, and ownership share of each legal entity, that holds or acquires an ownership interest in the legal entity. MASC payments to a legal entity will be reduced in proportion to a member's ownership share when a valid taxpayer identification number for a person or legal entity that holds a direct or indirect ownership

interest of less than 10 percent at or above the fourth level of ownership in the business structure is not provided to USDA. A legal entity will not be eligible to receive payment when a valid taxpayer identification number for a person or legal entity that holds a direct or indirect ownership interest of 10 percent or greater at or above the fourth level of ownership in the business structure is not provided to USDA.

If a person or legal entity is not eligible to receive MASC payments due to the person or legal entity failing to satisfy payment eligibility provisions, the payment made either directly or indirectly to the person or legal entity will be reduced to zero. The amount of the reduction for the direct payment to the producer will be commensurate with the direct or indirect ownership interest of the ineligible person or ineligible legal entity.

Like other programs administered by FSA, payments made to an Indian Tribe or Tribal organization, as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), will not be subject to payment limitation.

How to Apply

Applicants must submit FSA-1140, Marketing Assistance for Specialty Crops (MASC) Application, to their local FSA county office²³ by **[INSERT DATE 29 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Applicants will submit 1 application that includes their total specialty crop sales in all counties nationwide. New producers must also submit all required documentation and FSA-1141 by **[INSERT DATE 29 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. FSA will not take action on applications from new producers that are submitted without FSA-1141 and required documentation.

²³To locate the nearest FSA county office, visit the USDA Service Center locator at <https://www.farmers.gov/working-with-us/service-center-locator>.

Applicants must also submit the following eligibility forms to FSA by **[INSERT DATE 394 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, if not already on file with FSA for the 2025 program year:

- AD-2047, Customer Data Worksheet, for new applicants and applicants who need to update their information;
- CCC-901, Member Information for Legal Entities, if applicable;
- CCC-902E, Farm Operating Plan for an Entity; if applicable;
- CCC-902I, Farm Operating Plan for an Individual, if applicable;
- CCC-941, Averaged Adjusted Gross Income (AGI) and Consent to Disclosure of Tax Information, for the producer and members of entities;
- CCC-942, Certification of Income from Farming, Ranching and Forestry Operations, if applicable, for the producer and members of entities; and
- AD-1026 Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) Certification, for the producer and affiliated persons, as specified in 7 CFR 12.8.

Other Provisions

General requirements that apply to other FSA-administered commodity programs also apply to MASC. Producers that receive MASC payments must be in compliance with the provisions of 7 CFR part 12, “Highly Erodible Land and Wetland Conservation,”²⁴ for the 2025 crop year, and the provisions of 7 CFR 718.6, which address ineligibility for benefits for offenses involving controlled substances, for the 2025 program year.

²⁴To comply with the requirements of 7 CFR part 12, producers and affiliates must establish a detailed farm record with FSA, unless the producer or affiliate does not have interest in land devoted to agriculture (for example, beekeepers who place their hives on another person’s land and producers of crops grown in greenhouses who do not own or lease any agricultural land themselves).

All information provided to FSA for program eligibility and payment calculation purposes is subject to spot check. Participants are required to retain documentation in support of their application for 3 years after the date of approval. Participants receiving MASC payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the operation and to inspect, examine, and allow representatives to make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

If a MASC payment resulted from erroneous information provided by a participant, or any person acting on their behalf, the payment will be recalculated and the participant must refund any excess payment to FSA with interest calculated from the date of the disbursement of the payment. If FSA determines that the applicant intentionally misrepresented information provided on their application, the application will be disapproved and the applicant must refund the full payment to FSA with interest from the date of disbursement.

Applicants have a right to a decision in response to their application. If an applicant submits an application or required documentation to an FSA county office after the deadline, the submission will be considered a request to waive the deadline. Requests to waive or modify program provisions, including requests to waive the deadline, are at the discretion of the Deputy Administrator. The Deputy Administrator has the authority to waive or modify application deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines: (1) it is equitable to do so; and (2) the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of MASC. Applicants who request to waive or modify MASC provisions do not have a right to a decision on those requests. The Deputy Administrator's refusal to exercise discretion on requests to waive

or modify MASC provisions will not be considered an adverse decision and is, by itself, not appealable.

Equitable relief and finality provisions specified in 7 CFR part 718, subpart D, apply to determinations under MASC. Persons and legal entities who file an application with FSA have the right to an administrative review of any FSA adverse decision with respect to the application under the appeals procedures at 7 CFR parts 780 and 11. The determination of matters of general applicability that are not in response to, or do not result from, an individual set of facts in an individual participant's application are not matters that can be appealed. Such matters of general applicability include, but are not limited to, eligible specialty crops, the payment calculation, payment limitation, and payment factors.

Any payment under MASC will be made without regard to questions of title under State law and without regard to any claim or lien. The regulations governing offsets in 7 CFR part 3 apply to MASC payments.

In either applying for or participating in MASC, or both, the applicant is subject to laws against perjury (including but not limited to 18 U.S.C. 1621). If the applicant willfully makes and represents as true any verbal or written declaration, certification, statement, or verification that the applicant knows or believes not to be true, in the course of either applying for or participating in MASC, or both, then the applicant may be found to be guilty of perjury. Except as otherwise provided by law, if guilty of perjury the applicant may be fined, imprisoned for not more than 5 years, or both, regardless of whether the applicant makes such verbal or written declaration, certification, statement, or verification within or outside the United States.

For the purposes of the effect of a lien on eligibility for Federal programs (28 U.S.C. 3201(e)), USDA waives the restriction on receipt of funds under MASC but only

as to beneficiaries who, as a condition of the waiver, agree to apply the MASC payments to reduce the amount of the judgment lien.

In addition to any other Federal laws that apply to MASC, the following laws apply: 18 U.S.C. 286, 287, 371, and 1001.

Paperwork Reduction Act Requirements

In compliance with the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the information collection request has been approved by OMB under the control number of 0503–0028. FSA will provide financial assistance to specialty crop producers, if eligible, to help them engage in activities that aid in expanding domestic specialty crop markets or in developing new markets for their crops as described in this NOFA.

Environmental Review

The environmental impacts of this notice 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 regulations for compliance with NEPA (7 CFR part 799).

The purpose of MASC is to provide assistance to specialty crop operations to expand domestic specialty crop markets or develop new markets for their crops. The Categorical Exclusions in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii) (that is, financial assistance to supplement income). No Extraordinary Circumstances (7 CFR 799.33) exist. FSA has determined that this notice does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Assistance Listing²⁵, to which this document applies is 10.096, Marketing Assistance for Specialty Crops (MASC).

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Individuals who require alternative means of communication for program information (for example, braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720-2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866)

²⁵See <https://sam.gov/content/assistance-listings>.

632-9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or email: OAC@usda.gov.

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Zach Ducheneaux,
Administrator,
Farm Service Agency, and
Executive Vice President,
Commodity Credit Corporation.

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