



## Agricultural Policy Update Coronavirus Food Assistance Program (CFAP) for Crawfish Production

### Introduction

The Coronavirus Food Assistance Program (CFAP) is designed to provide financial assistance to producers of agricultural commodities who faced price declines and additional marketing costs due to COVID-19. The CFAP was first announced in May 2020 but, at that time, crawfish production was not identified as an eligible commodity. However, USDA announced on August 11 that certain aquaculture commodities, including crawfish, grown and harvested from controlled environments, including raceways, ponds, tanks, and recirculating systems, are eligible for CFAP. Farm raised crawfish meet this requirement.

Starting on Monday, August 17, 2020 crawfish producers will be able to apply for financial assistance through the CFAP with their local Farm Service Agency (FSA) office. The deadline for applying has been set for September 11, 2020. Information about the program and the application process can be found at <https://www.farmers.gov/cfap>.

### Who Is Eligible?

With the announcement on August 11, 2020, **crawfish is now an eligible commodity** for the program. Individuals or legal entities who had a risk in the production of crawfish and who were entitled to a share of the crawfish available for marketing or would have shared had the crawfish been marketed in 2020, are eligible. Processing entities are NOT eligible to participate. In addition, individuals or legal entities must:

- Have ownership and risk in the production of crawfish, grown and harvested from controlled environments, including raceways, ponds, tanks, and recirculating systems, are eligible for CFAP. Farm raised crawfish meet this requirement.
- Have an average adjusted gross income of less than \$900,000 for tax years 2016, 2017, and 2018 **OR** must derive at least 75 percent of their adjusted gross income from farming, ranching, and forestry
- Comply with provisions of the “Highly Erodible Land and Wetland Conservation” regulations, often called the conservation compliance provisions; and
- Not have a controlled substance violation.

## How do I Apply?

- Producers who are interested in participating in CFAP can apply in a number of different ways. First, the producer can simply contact the local FSA office to set up an appointment to get all of the necessary forms. **NOTE: Due to COVID, FSA Offices are open, but are *not* conducting face to face business. Therefore, you *must* contact the office via telephone in order to make an appointment to conduct business.**
- Another way to apply is to create an account and complete the form online through USDA's online application portal. The online application, along with instructions about the online application portal, can be found at <https://www.farmers.gov/cfap> by clicking on the "Apply Online" link. The direct link to the online application portal is <https://apps.fsa.usda.gov/cfap/index.jsp>.
- Another way to apply is to download and print the application forms, complete them, and then return the completed forms to the local FSA office. The application forms along with instructions can be found at <https://www.farmers.gov/cfap> by clicking on the "Manually Complete Applications" link. The direct link to the application form is <https://www.farmers.gov/sites/default/files/documents/AD3114-CFAP-Application-08142020.pdf>.
- The final way to apply is to download an Excel based payment calculator. In addition to estimating the level of payments the producer may be eligible for, the calculator will also automatically complete the application form for the producer. Once the application form is completed in the calculator, the producer must print the form and return it to the local FSA office. The payment calculator can be downloaded at <https://www.farmers.gov/cfap> by clicking on the "Fill Application with Payment Calculator" link.

Regardless of how the producer chooses to apply for the program, all producers are highly encouraged to contact their local FSA office. FSA personnel can address any questions regarding the application form as well as inform the producer of any additional forms or documentation needed to complete the application process. In addition to the application form, other documentation will need to be on file with the local FSA office to complete the process. Producers will need to have the following on file with the local FSA office:

- A Farm Operating Plan (CCC-902)
- A Highly Erodible Land Conservation and Wetland Conservation Certification (AD-1026)
- An Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information. (CCC-941)

For producers who have not participated in any FSA programs prior to CFAP, the three forms mentioned above will have to be completed in addition to the application process. For those producers that regularly participate in FSA programs, these three forms are likely already on file with the FSA office, but you should ensure they are updated properly.

### **How Does the Program Work?**

For crawfish, the CFAP is broken into two components. At the time of application, the applicant must self-certify the number of pounds of crawfish that fit into either one or both the following two categories. **Note: Since this is a self-certification, in a compliance review, the applicant will be responsible for demonstrating the basis of their certification and providing records which support this certification. FSA does not require these records at the time of application, but said applicant should maintain these records after the application is submitted to be able to successfully comply with a potential audit at a later date.**

#### ***CARES Act Rate – Production Harvested and Sold from January 15 – April 15, 2020***

The first component involves the amount of crawfish that the individual or legal entity harvested and marketed from January 15 to April 15, 2020. A payment rate of \$0.65 per pound will be paid for the pounds of crawfish harvested and marketed during that time period.

For example, if a producer certifies that 50,000 pounds of crawfish were marketed from January 15 to April 15, 2020, then the producer would be eligible for a payment of \$32,500 (50,000 pounds \* \$0.65 per pound = \$32,500). Producers can use their actual sales receipts or production records to accurately determine the amount of crawfish they harvested and marketed during that time period. Please understand your application should only include production from January 15 through April 15, 2020.

#### ***\*Share Rental Arrangements***

*It should be noted that producers that are on a share rental arrangement with their landlord should only include their portion of the crawfish harvested and marketed and not the landlord's share, the landlord would be eligible to apply on their share of the crop. Also, producers who purchase crawfish from other producers and then market those crawfish should not include those purchased crawfish in their certification. Producers should only include crawfish that they harvested and marketed and not those crawfish that they simply purchased and re-sold.*

#### ***CCC Rate - Inventory that was Not Sold as of April 15, 2020, Due to Lack of Market and Will Not Be Sold in Calendar Year 2020***

The second component of the program involves crawfish that were not harvested and marketed after April 15, 2020 due to a lack of demand or market availability. A payment rate of \$0.05 per pound will be paid for the amount of crawfish not harvested and not marketed from April 15<sup>th</sup> through the remainder of the normal production season.

So, for example, if a producer certifies that because of a lack of markets that 15,000 pounds of crawfish went un-harvested and un-marketed from April 15 through the remainder of the production season, then the producer would be eligible for an additional payment of \$750 (15,000 pounds \* \$0.05 per pound = \$750).

While producers must have records or receipts to easily and accurately determine the amount of crawfish marketed from January 15<sup>th</sup> to April 15<sup>th</sup>, there is really no record available for easily determining the amount of crawfish that went un-harvested. As such, producers will need to develop a procedure that is realistic and can be justified in determining these estimates.

- One way for a producer to demonstrate the un-harvested crawfish is to compare the amount of crawfish harvested and marketed during the 2019/2020 production season to the previous three-year average production in the operation. For example, assume a producer farmed 500 acres of crawfish during the 2019/2020 production season and marketed 550 pounds of crawfish per acre for a total of 275,000 pounds. If that same producer had averaged marketing 750 pounds per acre on 500 acres for a total of 375,000 pounds over the previous three years, then the difference, or 100,000 pounds, would be a reasonable and justifiable estimate of the amount of crawfish that normally would have been harvested and marketed had it not be for the market distortion caused by the COVID pandemic.
- Another way to demonstrate the amount of crawfish that went un-harvested would be to determine the number of days that a producer was unable to harvest and market crawfish from April 15 through the remainder of the production season and apply the pounds marketed per day on the days harvested. So, for example, assume a producer has production records that show from April 15 through the remainder of the production year, the operation harvested and marketed 200 pounds per acre across 500 acres for a total of 100,000 pounds and did that on 20 fishing days. Then, the amount of crawfish harvested and marketed per fishing day was 5000 pounds per day (100,000 pounds / 20 fishing days = 5,000 pounds). Assume that under normal conditions, the producer would have fished and marketed crawfish 50 days during that period rather than the 20 days for a difference of 30 days. So, assuming that the amount the producer was able to harvest and market would have been the same for those extra 30 days, then an estimate for the un-harvested and un-marketed crawfish would be 150,000 pounds (30 days \* 5,000 pounds per day = 150,000 pounds).

Regardless of how a producer determines the amount of crawfish that was un-harvested and un-marketed, it must be done in a way that is reasonable, **demonstrable** and that is supported by production records or other such acceptable information. Producers **should not** simply guess at what that value is but should have a rational and defensible methodology on how that estimate was developed. Producers also need to be mindful that the certification provided for

crawfish harvested during the January 15 to April 15 timeframe plus the estimate provided for crawfish that went un-harvested and un-marketed from April 16<sup>th</sup> through the remainder of the production season taken together should be a realistic value. For some producers, a lack of data may prevent them from being able to develop a defensible certification. It should be noted that a producer can apply by providing a number for the first component (the amount of crawfish marketed from January 15 to April 15) without having to provide a number for the second component (the amount of crawfish that went un-harvested and un-marketed from April 16<sup>th</sup> through the remainder of the production season). So, if producers are unable to develop an estimate for the second component that is defensible and do not feel comfortable with certifying that estimate, they can simply apply for the first component and not for the second component. These are two independent payments and producers do not have to apply for both components.

### **What Information Do I Have to Provide?**

In terms of the applying for the CFAP payments, the only thing that must be turned in is the completed application forms. Producers do not have to provide evidence of production at the time of application. So, for example, if a producer used sales receipts to determine the amount of crawfish that was marketed from January 15 to April 15, they would not have to turn those receipts in along with the application form. It should be noted, however, that the FSA County Committee, which reviews all of the applications, does have the authority to question an application and request additional verifying information before approving the application. If requested, records will need to be provided for the County Committee review.

In addition, applications will be subject to a compliance review at some time in the future. At that time, the producer would have to produce data and other evidence verifying the values that were provided in the application form. So, for example, if a producer certified that the operation marketed 300,000 pounds of crawfish during the January 15 to April 15 time period, then the producer would have to produce data (receipts, production records, etc.) that verify that certification. Similarly, if the producer certified that 500,000 pounds of crawfish was un-harvested and un-marketed from April 16<sup>th</sup> through the remainder of the production season, then the producer would have to produce a defensible methodology on how that number was developed, along with background data to justify that number. These compliance reviews can come months or years after the program ends, so producers would be encouraged to keep all supporting documentation. **FAILURE TO MEET THESE COMPLIANCE OBLIGATIONS WOULD REQUIRE THE REPAYMENT OF ALL CFAP BENEFITS.**

If the producer cannot produce information and an estimation process that verifies the numbers provided in the application, that producer would be subject to returning all payments received through the CFAP. So, if a producer was able to verify the amount of crawfish marketed from January 15 to April 15, but could not verify the amount of crawfish that was estimated as being un-harvested and un-marketed after April 15, the producer would be subject to paying back

both the payment associated with the un-harvested and un-marketed crawfish estimate AND the payment associated with the crawfish marketed from January 15 to April 15. So, as mentioned earlier, if a producer is unable to develop an estimate for the un-harvested and un-marketed crawfish that is defensible, then it is probably in that producer's best interest to not apply for that component of the program and run the risk having to repay not only that payment but also the payment associated with the January 15 to April 15 sales.

### **Timing of Payments**

Crawfish producers who apply and are approved for the CFAP program between Monday, August 17<sup>th</sup> and Friday, September 11<sup>th</sup> will be eligible to receive 100 percent of their eligible payment.

In terms of how quick a producer may receive the payment, FSA is committed to processing and approving applications and making payments as quickly as possible.

### **Payment Limits**

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

Unlike other FSA programs, special payment limitation rules apply to participants that are corporations, limited liability companies, and limited partnerships (corporate entities). These corporate entities may receive up to \$750,000 based upon the number of shareholders (not to exceed three shareholders) who are contributing at least 400 hours of active personal labor or active personal management.

For a corporate entity:

- With one such shareholder, the payment limit for the entity is \$250,000;
- With two such shareholders, the payment limit for the entity is \$500,000 if at least two members contribute at least 400 hours of active personal labor or active personal management, or combination thereof, with respect to the operation of the corporate entity;
- With three such shareholders, the limit is \$750,000 if at least three members contribute at least 400 hours of active personal labor or active personal management, or combination thereof, with respect to the operation of the corporate entity.

### **Deadlines and Working with Local FSA Offices**

As mentioned previously, the deadline to contact your local FSA office and to begin the application process is September 11, 2020. Please remember that completing the application process includes completing the application form along with having a Farm Operating Plan, a Highly Erodible Land Conservation and Wetland Conservation Certification, and an Average

Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information on file with the local office. A producer should be ready to provide any needed documentation for those three pieces. While the application form can be completed online, producers who need to provide these other pieces of documentation will likely need to work with their local FSA office.

While it is certainly recommended that producers contact their local FSA office in a timely manner, it should be pointed out that this program is not a first come, first served program in terms of funds availability. All indications suggest that adequate funds are available to fully fund eligible payments to producers. It is important, however, that producers contact their local FSA office and begin the application process prior to the September 11<sup>th</sup> deadline.

Remember, due to the COVID-19 pandemic, local FSA offices are not open to the public. Producers must call and establish an appointment with the local FSA office. At this time, no walk in service is allowed. Contact information for local FSA offices can be found at <https://offices.sc.egov.usda.gov/locator/app?state=la&agency=fsa> by clicking on your parish.

*This policy and program description is being provided by the LSU AgCenter, in conjunction with Louisiana Farm Bureau Federation (LFBF), and is provided for informational purposes only. This policy update is based on the authors' interpretation of the legislative language of CFAP. Producers should consult their local USDA-FSA office for specific program/eligibility questions pertaining to their farming operation.*

*Authors: Dr. Kurt Guidry, LSU AgCenter; Dr. Michael Deliberto, LSU AgCenter; Dr. Greg Lutz, LSU Agcenter; Mark Shirley, LSU AgCenter; Andy Brown, LFBF; and Dr. Ron Harrell, LFBF*

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