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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

[Docket ID FSA-2024-009]

**Notice of Funds Availability (NOFA); Organic Dairy Marketing Assistance
Program 2024 (ODMAP 2024)**

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

ACTION: Notification of funds availability.

SUMMARY: The Farm Service Agency (FSA) is announcing the availability of marketing assistance funding to organic dairy operations in the United States. The organic dairy farms have faced—and still continue to face—a variety of challenges, and many are struggling to remain organic dairy operations, which is why FSA is issuing this notice to provide marketing assistance payments to eligible organic dairy operations to help expand the market for organic dairy and increase the consumption of organic dairy. ODMAP 2024 will provide payments to assist organic dairy operations with projected marketing costs for 2024.

DATES: *Applications Due Date:* We will accept applications from **[Insert date of publication in the *FEDERAL REGISTER*]** through **[Insert date 60 days after date of publication in the *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Douglas Kilgore, (717) 887-0963, douglas.e.kilgore@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Over the past several years, organic dairy farms have faced—and continue to face—a variety of challenges, and many are struggling to remain in business. Notably, organic dairy operations have limited ability to pass along cost increases to retailers or consumers without leading to a decrease in domestic consumption of organic dairy. The cost increases have, in many cases, eliminated profit margins, especially among operations that do not have the ability to take advantage of economies of scale. Without intervention, marketing and operational challenges may result in decisions to cease organic dairy operations entirely, which will reduce the organic dairy market.

The organic dairy market is closely linked to the domestic organic feed market. Reduction in organic dairy numbers would consequently result in reduction in organic feed demand. Organic grain and forage commodities have traditionally been relatively small markets where the domestic U.S. demand for organic feed has outstripped supply, resulting in the need for imports. Input costs and availability, especially feed, have seen several years of sustained increases and volatility due to a variety of factors that has impacted increased costs of production. In 2023, drought conditions affected many areas in which organic dairies operate. Many of these operations rely on grazing and therefore required the purchase of forage from a distressed and limited market. Contraction of the organic industry, including availability of organic forage operators, also continues to affect the availability of major organic feed and forage commodities for organic dairy operations.

In addition to these input costs and challenges, organic dairy farmers also have seen higher delivery and marketing costs as in prior years, especially those related to transportation and hauling. As part of the system through which all dairy farmers provide milk and dairy products to consumers, dairies bear the costs of milk hauling and other marketing costs. These marketing costs for organic dairies, however, can be significantly greater than the conventional market because of the unique and limited marketing system structure within the United States. In addition, participants in the organic dairy sector must take additional steps to keep the organic milk separated and its status as organic clearly preserved. In some cases, these requirements necessitate longer and more costly hauling routes, including the costs of finding truck drivers willing to cover longer routes with multiple stops. Finding truckers with the experience and training to operate tanker trucks and irregular scheduling for milk hauling, exacerbates these challenges further.

Organic dairy operations also tend to be smaller farms than conventional dairy operations, which means they often have less production to spread the various fixed costs over or have higher per unit costs. Additionally, marketing costs that include cooperative dues, capital retains, and mandated advertising and promotional assessments influence the bottom line of organic dairy operations, especially small and mid-size operations. Therefore, organic dairy operations often do not benefit from the same economies of scale as conventional dairies. In particular, milk pick-up and hauling costs may be a challenge due to the need to have dedicated organic pick-up routes that need to stop at multiple farms or use smaller tankers.

FSA will administer ODMAP 2024 in a similar manner as the previous ODMAP NOFA for 2023 published on May 24, 2023 (87 FR 33563-33564); however, FSA has

made changes to improve the operation of ODMAP, as explained in this NOFA, including a revision of the marketing assistance payment calculation by using organic milk pricing instead of commercial milk pricing.

ODMAP 2024 will provide payments to eligible organic dairy operations that produce milk from cows as well as organic dairy operations that produce milk from goats and sheep. All three types of organic dairy operations are eligible since all three types of operations face the same challenges related to organic marketing and generally follow similar business and marketing models, such as pooling milk through cooperatives or selling directly to milk processors that make dairy products such as cheese. While there are fewer, and, therefore, less data available on, organic dairy operations that produce milk from goats and sheep compared to cows, based on the fact that all three operations face the same challenges and have the same business and marketing models, the impact of increased marketing costs to the market for, and therefore consumption of, organic dairy is understood to remain constant across all three.

Data to estimate the marketing costs for all species relies on conventional cow milk estimates, since more specific national organic cow, sheep, or goat estimates are not available. Given the unique marketing challenges and strategies for organic dairy operations discussed above, these conventional estimates are likely to be conservative and do not reflect the full marketing costs for organic production.

Through ODMAP 2024, USDA is assisting organic dairy operations by providing payments to assist with their projected marketing costs in 2024. The Commodity Credit Corporation (CCC) Charter Act (15 U.S.C. 714c(e)) includes authority for CCC to use its general powers and funding to increase the domestic consumption of agricultural

commodities (other than tobacco) by expanding or aiding in the expansion of domestic markets or by developing or aiding in the development of new and additional markets, marketing facilities, and uses for such commodities. USDA is providing this marketing assistance to organic dairy producers to help keep organic dairies in operation by aiding in the expansion of the domestic market for organic dairy, which will increase domestic consumption of organic dairy, in order to counteract the currently projected reduction in this market. According to USDA's Organic Integrity Database, from 2021 through 2024, 19 percent of certified organic dairy operations have gone out of business. Without the ODMAP 2024 marketing assistance, it is projected that organic dairies, and particularly small organic dairies, may cease or decrease organic dairy production and reduce the domestic supply and consumption of organic milk.

FSA designed ODMAP 2024 to provide marketing assistance to certified organic dairy operations that produce organic milk from dairy cows, dairy goats, or dairy sheep. ODMAP 2024 provides one-time payment for a cost share of projected marketing costs for eligible organic dairies for 2024, not to exceed 9 million pounds of organic milk marketed per operation. FSA has increased the production level eligible for cost share assistance to 9 million pounds from the 5 million used in the 2023 version of ODMAP in order to make additional assistance available to organic dairy operations that are vulnerable due to narrow margins and at risk of going out of business. For ODMAP in 2023, eligible organic dairy operations were limited to cost-share assistance on their first 5 million pounds of production. Upon further review, FSA determined that increasing the production level eligible for cost-share assistance in ODMAP 2024 from 5 million

pounds to 9 million pounds¹ would broaden the level of support provided by this program to provide a greater impact on the market for organic dairy. While all eligible organic dairy operations may receive cost-share assistance on up to 9 million pounds of production, this increased production level for cost-share will provide a greater impact on the marketing of small and mid-sized organic dairy operations who are most vulnerable to market impacts because of higher input costs from lacking the economies of scale of larger operations and for whom this higher production level represents a greater proportion of these dairies' overall production. This increased production level eligible for cost-share is intended to further increase consumption of organic dairy by providing greater assistance to producers to market their organic dairy products and thereby expand the availability of marketed organic dairy products.

All organic dairy operations that apply for ODMAP 2024 will be required to provide their USDA certification of organic status, confirming their operation as an organic dairy operation at the time of application. In order to calculate projected marketing costs for 2024, the streamlined process will have operations certify to their organic milk production for the 2023 calendar year, that was marketed directly as organic milk or indirectly through organic dairy products or a projection of pounds of organic milk marketed in 2024 if warranted due to changes in circumstances between 2023 and 2024 supported by documentation as discussed further below. While production documentation for 2023 production is not required at the time of application, operations

¹FSA's increase to 9 million pounds aligns with a change made in 2023 in the Pandemic Market Volatility Assistance Program administered by the Agricultural Marketing Service (AMS) for organic dairy farmers to increase the eligibility cap for payments in that program from 5 million to 9 million pounds, an increase intended to provide additional support to medium-sized organic dairy farmers.

should retain supporting documentation and calculations for 3 years should they be selected for a spot check.

FSA will administer ODMAP 2024 on behalf of CCC, using CCC funds. The ODMAP 2024 payment may be issued in 2 parts.

There is \$58 million from CCC funds available for ODMAP 2024 marketing assistance. ODMAP 2024 payments will be subject to availability of funding. FSA will make an initial payment to eligible applicants factored by 75 percent. If sufficient available funding remains at the conclusion of the application period, an additional payment of up to the remaining 25 percent may be made to each eligible applicant if USDA determines that additional marketing assistance is still needed.

The funds announced in this NOFA are not subject to sequestration.

Average Milk Marketing Cost

The only available estimates to calculate an average milk marketing cost are from milk marketed through the Federal Milk Marketing Orders (FMMO), which is primarily conventional cow milk. There are no national-level data sets on milk marketing and hauling costs specific to organic sheep or goat operations. While an estimated average milk marketing cost from FMMO is likely conservative given the likely higher per unit costs for smaller operations that are more common for organic production, and the unique marketing challenges facing organic dairy operations, the similarities in marketing options and costs between conventional and organic make it the best proxy available. This is particularly true after FSA adjusts the estimated average milk marketing cost from the FMMO by using the 2021 NASS All-Milk price for organic milk, which better takes

into account the increased price for organic milk as compared to the conventional price of milk used under ODMAP for 2023.

To develop the ODMAP 2024 payment rate, FSA worked with the Agricultural Marketing Service (AMS) to determine an average marketing cost per hundredweight, using the AMS data from the FMMO regional model documentation (<https://www.ams.usda.gov/sites/default/files/media/FinalDecisionEconometricModelDocumentation.pdf>), which estimates the relationship between each FMMO uniform milk price and the National Agriculture Statistics Service (NASS) all-milk price. To take into account the price difference between conventional milk and organic milk, the 2021 NASS All-Milk price for organic milk is used to determine an average marketing cost per hundredweight instead of the 2020 All-Milk price for conventional milk used for ODMAP.

Through this comparison using the 2021 NASS All-Milk price for organic milk, the model estimates the milk marketing and hauling fees that are deducted in the net producer milk marketing statements (producers' paychecks).

Averaging these estimates of milk marketing costs among orders results in an average of \$1.68 per hundredweight for 2023, which will be used as the average milk marketing cost to calculate the ODMAP 2024 payment.

Eligibility

To be eligible for ODMAP, the organic dairy operation must produce and market organic milk from cows, goats, or sheep at the time of application, provide their USDA Certification of organic status for 2024, and have documentation to support any certified projection of 2024 pounds of organic milk marketed.

To be eligible for ODMAP 2024 marketing assistance each applicant must:

- (1) Submit a FSA-630-1 application and any additional required documentation as specified in the Application Process section below; and
- (2) Comply with all provisions of this NOFA and comply with the following regulations:
 - 7 CFR part 12—Highly Erodible Land and Wetland Conservation;
 - 7 CFR 718.6, Controlled Substance; and
 - 7 CFR part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been declared Incompetent, if applicable.

In addition, consistent with other FSA assistance programs, a producer must be a:

- Citizen of the United States;
- Resident alien, which for purposes of ODMAP 2024 means “lawful alien” as defined in 7 CFR 1400.3;
- Partnership consisting solely of citizens of the United States or resident aliens; or
- Corporation, limited liability company, or other organizational structure organized under State law consisting solely of citizens of the United States or resident aliens.

Federal, State, and local governments are not eligible for ODMAP 2024 payments.

Payment Rates and Calculations

The ODMAP 2024 initial payment will be calculated by using the producer-certified pounds of organic milk projected to be marketed in 2024, multiplied by the

\$1.68 per cwt ODMAP 2024 payment rate, multiplied by a factor of 75 percent. The pounds of organic milk projected to be marketed in 2024 will be:

- (i) the self-certified organic milk production marketed directly by the operation in 2023 or used as inputs in related-organic dairy products marketed in 2023, that can be supported by documentation maintained in the ordinary course of business, or
- (ii) if approved by the Deputy Administrator, an operation-specific certified estimate of organic milk projected to be marketed in 2024 that is supported by documentation maintained in the ordinary course of business from the applicant.

Operations that (a) transitioned to organic in 2023 or 2024, (b) are new organic operations in 2023 or 2024, or (c) have increased organic milk production capacity by 15 percent or greater in 2024 as compared to 2023, may request to use a certified estimate of their operation's reasonably projected organic milk to be marketed in 2024 based on average daily organic production of current herd that can be supported by documentation maintained in the ordinary course of business, including, but not limited to milk marketing statements, active base milk production records, contemporaneous records, or similar supporting documentation, as may be requested by the Deputy Administrator. These operations must provide an explanation of the basis for their monthly projections on the form FSA-630-1 and how those projections are supported by the supporting documentation they submit with the application. All organic dairy operations making such a request must submit with their application all available 2024 milk marketing statements, in addition to all other documentation necessary to support their certification.

Organic dairy operations should contact their local FSA Service Center if they have questions regarding their particular circumstances and the documentation necessary to support such a request. The request will be evaluated by the Deputy Administrator at the Deputy Administrator's discretion to assess whether the estimate is adequately supported by documentation and reasonable based on the documented average daily production of current organic herd.

The ODMAP 2024 initial payments factored at 75 percent will be made to eligible applicants on a rolling basis as applications are submitted and approved. If funds remain at the conclusion of the application period, a second payment to eligible applicants of up to the remaining 25 percent may be issued subject to available funding and a determination by FSA of the need for additional marketing assistance based on discussions with USDA experts and economists, industry, and stakeholders regarding impact of initial marketing assistance on domestic consumption of organic dairy.

Organic dairy operations are only eligible for payment on up to 9 million pounds of organic milk.

Application Process

FSA will make available to organic dairy operations form FSA-630-1 to apply for assistance for 2023 milk production or 2024 estimated milk production for dairy operations that provide supporting documentation demonstrating increased estimated 2024 milk production in comparison to 2023 milk production. FSA will accept applications from **[Insert date of publication in the *FEDERAL REGISTER*]** through **[Insert date 60 days after date of publication in the *FEDERAL REGISTER*]**. To apply for ODMAP 2024 marketing assistance, all applicants must submit a completed

form FSA-630-1 and all other required documentations to their administrative FSA county office by **[Insert date 60 days after date of publication in the *FEDERAL REGISTER*]**.

Applicants must submit the following forms, if not already on file, in person or by mail, email, facsimile:

- Form FSA–630-1, ODMAP 2024 Application;
- Manual Form CCC–902–I, Farm Operating Plan for an Individual, as applicable;
- Manual Form CCC–902E, Farm Operating Plan for an Entity, as applicable;
- CCC–901, Member Information for Legal Entities (if applicable);
- AD–1026, Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) Certification; and
- AD–2047, Customer Data Worksheet.

The Deputy Administrator has the discretion and authority to waive or modify filing deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of ODMAP 2024. Although producers have a right to a decision on whether they filed applications by the deadline or not, producers have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator’s refusal to exercise discretion on requests to waive or modify ODMAP 2024 provisions will not be considered an adverse decision and is, by itself, not appealable.

Evaluation and Approval of Payments

FSA will review each ODMAP 2024 application and supporting documentation to determine eligibility. FSA, on behalf of CCC, will approve applications for an ODMAP 2024 payment for eligible applicants consistent with the terms specified in this document.

If requested by FSA, the applicant must provide additional supporting documentation to verify the accuracy of information provided on the application. If any supporting documentation is requested, the documentation must be submitted to FSA within 30 calendar days from the request or the application will be disapproved by FSA, and, if payment has been made, full ODMAP 2024 payment will be required to be refunded to FSA with interest from the date of disbursement. ODMAP 2024 is subject to the availability of funding and will be funded in the order in which applications are approved. If additional funding is allocated to ODMAP 2024 after initial funding is depleted, additional applications will be reviewed, approved, and funded, if the eligibility criteria is met, in the order received during the application period, subject to the availability of those additional funds.

An ODMAP 2024 initial payment will be issued after an application is approved. At the end of the application period, a second payment may be issued to eligible applicants.

Provisions Requiring Refund to FSA

In the event any ODMAP 2024 payment resulted from erroneous information or a miscalculation, the payment will be recalculated, and the participant must refund any excess payment to FSA with interest to be calculated from the date of the disbursement to the participant. If, for whatever reason, FSA determines that the applicant

misrepresented either the reported organic milk production or organic certification or is otherwise ineligible for payment, the application will be disapproved, and the full ODMAP 2024 payment will be required to be refunded to FSA with interest from the date of disbursement. ODMAP 2024 applications, the form FSA-630-1, will be reviewed and spot-checked by FSA for program eligibility and payment calculation purposes through milk marketing statements or similar supporting documentation. ODMAP 2024 participants must retain all supporting documentation for 3 years.

The liability of anyone for any penalty or sanction resulting from an ODMAP 2024 application, or for any refund to FSA, is in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001, and 1014; 15 U.S.C. 714; and 31 U.S.C. 3729.

Miscellaneous Provisions

Appeal regulations specified in 7 CFR parts 11 and 780 apply. FSA program requirements and determinations that are not in response to, or result from, an individual disputable set of facts in an individual participant's application for assistance are not matters that can be appealed.

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 collect the information from the organic dairy operations to qualify for the ODMAP 2024 payment. ODMAP 2024 provides one-time payment to the eligible organic dairy operations as described in this NOFA.

Environmental Review

The environmental impacts 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 ODMAP 2024 is to provide marketing assistance funding to organic dairy operations in the United States to increase the domestic consumption of organic milk and organic milk products by aiding in the expansion of the organic milk market. The limited discretionary aspects of ODMAP 2024 do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the categorical exclusions in 7 CFR 799.31(b)(6)(iii) that applies to price support programs, provided no extraordinary circumstances are found to exist. As such, the implementation of ODMAP 2024 and the participation in ODMAP 2024 do not constitute major Federal actions 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 action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Assistance Listing, to which this document applies is 10.977, Organic Dairy Marketing Assistance Program (ODMAP) 2024.

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, audiotape, 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) 632-9992. Submit your completed form or letter to USDA by: (1) mail to: U.S.

Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400
Independence Avenue, SW, Washington, DC 20250-9410; (2) Fax: (202) 690-7442; or
(3) email: [program.intake @usda.gov](mailto:program.intake@usda.gov).

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Steven Peterson,
Administrator,
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Executive Vice President,
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