



Funding Availability: Coronavirus Food Assistance Program Additional Commodities Request for Information

Submitted electronically via: <https://beta.regulations.gov/document/FSA-2020-0004-0003>

RE: Malting Barley Eligibility for Coronavirus Food Assistance Program (CFAP)

- 1. Malting barley held in inventory by the grower but under contract as of January 15 should be eligible for CFAP**
- 2. Non-contracted malting barley held in inventory by a grower as of January 15th should be eligible for CFAP regardless of whether it has been sold or delivered (as proof that it goes to the malt market), as is the case for all other CFAP eligible non-specialty crops**

The National Barley Growers Association (NBGA) and American Malting Barley Association (AMBA) urge USDA to include all contracted and non-contracted barley for malting, feed, and food in the current Coronavirus Food Assistance Program (CFAP) and future assistance programs to offset the impacts of the global pandemic. The Final Rule for the CFAP includes eligibility for malting barley, however, other information and guidance issued by USDA has created uncertainty and inconsistencies for barley growers and for state Farm Service Agency (FSA) staff tasked with implementing the CFAP applications. USDA has indicated that crops held by farmers under certain types of contracts are not eligible. This interpretation would result in nearly all malting barley being ineligible for CFAP payments.

Malting barley markets have been disrupted as a result of the COVID-19 pandemic. Consumption of beer has been significantly impacted by the closure of restaurants and bars and the cancellation of major sporting events and concerts. Mexico, which is the largest export market for U.S. malting barley, shut down its beer production causing U.S. malt processing facilities to stop accepting deliveries of malt barley from U.S. farmers. The backlog of the beer and barley supply chain will have lasting impacts, including requiring farmers to store previous and current year barley crops for extensive periods, possibly a year or more, and likely a reduction in contracts for malting barley production in 2021. In this COVID-19 tainted market, until the crop has been physically delivered and accepted by the maltster it is at price risk due to long term storage and market demand issues. Maltsters can invoke force majeure clauses to nullify contracts, and some have already done so on 2020 contracts right after or just as farmers were planting their crops.

USDA has cited a lack of price risk for crops under contract as a reason for making them ineligible for CFAP. Malting barley farmers face price risk and are experiencing impacts and added costs, despite having contracts. While malting barley may be under contract, it is still subject to price risk until the grower can deliver it and it is determined to meet specifications.

The purchase contract price is not a guaranteed price, but rather a price subject to malting barley achieving quality parameters outlined in the contract specifications. Malting barley is unique from other grain crops because it must be delivered as a living organism due to the requirements and sensitivities of the malting and brewing process. The longer malting barley is stored on farm, the higher the probability of degradation of quality parameters and subsequent rejection by the contract buyer. Malting barley stored on farm and rejected at delivery will be sold into livestock feed markets at prices significantly lower than a malting barley contract price. The grower is not paid until delivery, and therefore material possession rests with the grower until it is sold, and the grower bears the entire risk of COVID 19 impact.

Growers do not know when they will be able to deliver contracted barley and most have been told to be prepared to store the grain for an extended period. While a barley grower may eventually be able to deliver their malting barley and receive the contracted price, it is also true that other commodities that qualify for CFAP payments may not realize a loss when they are eventually sold. It would be arbitrary, inconsistent, and unfair to provide CFAP payments to crops and commodities that may not ultimately realize a loss while disqualifying barley growers on this basis.

The relatively small amount of malting barley that is not under contract is also facing undue barriers to CFAP eligibility. State FSA offices are applying an additional standard on non-contracted malting barley requiring that it is sold and delivered for malt in order for FSA to verify that it meets the CFAP eligibility for malting barley (rather than feed barley or other uses). There is no similar requirement of sale and delivery for other non-specialty crops. The problems with this requirement are numerous and defeat the purpose of the CFAP. Growers have been unable to deliver malting barley due to the market disruptions of the pandemic. A malting barley grower should only have to self-certify that the barley is intended for the malt market or demonstrate that they planted an accepted malting variety seed. The American Malting Barley Association provides a list of recommended malting barley varieties for growers, which can be found at the following link, should it be of help to USDA in verifying malting barley eligibility for CFAP. <https://ambainc.org/amba-publications/recommended-malting-barley-varieties/>

USDA intended malting barley to be eligible for CFAP and accounted for payments on the malting barley crop in the final rule and the accompanying cost-benefit analysis. Table 4 in the USDA cost-benefit analysis shows that USDA estimated malting barley CFAP payments totaling \$27.1 million based on 38.2 million bushels (25% of 2019 production) of malting barley. However, interpretation of the guidance regarding eligible and ineligible contracts would essentially eliminate CFAP payments for any malting barley. Barley growers would not get the assistance USDA expected to provide.

Based on USDA's estimates, there was approximately 153 million bushels of malting barley production in 2019 with prices in the period of January – April declining from \$4.27 to \$3.60. Those numbers represent a loss of over \$100 million. Since the malting barley crop is largely concentrated in just one region of the country (states such as Montana, Idaho, and North Dakota), that economic impact of COVID-19 on barley and the lack of CFAP assistance will be largely concentrated in one region, having a disproportionate and lasting effect on these rural communities.”

The rule and justifications for CFAP indicate that its purpose is, “to help farmers and ranchers address market disruptions and oversupply which have affected transportation, storage, and other distribution costs. These disruptions are out of the ordinary range of predictable events for which producers are normally prepared and will continue for an unexpected duration until the COVID-19 situation abates. Producers of affected commodities have been—and will continue to— experience great uncertainty as they market commodities in this environment.”

Malting barley growers are experiencing the impacts that the CFAP was intended to address. USDA expected and accounted for malting barley CFAP eligibility. USDA needs to correct and clarify the guidance and interpretation for state FSA offices to ensure that: **1) Malting barley held in inventory by the grower but under contract as of January 15 is eligible and 2) Non-contracted malting barley held in inventory by a grower as of January 15th is eligible regardless of whether it has been sold or delivered (as proof that it goes to the malting market), as is the case for all other CFAP eligible non-specialty crops.**

Sincerely,

Buzz Mattelin, President
National Barley Growers Association

Scott Heisel, Vice President & Technical Director
American Malting Barley Association

