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USDA's Coronavirus Food Assistance Program: Round Two (CFAP-2)

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SUMMARY

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USDA's Coronavirus Food Assistance Program: Round Two (CFAP-2)

On September 18, 2020, the U.S. Department of Agriculture (USDA) announced a second round of Coronavirus Food Assistance Program (CFAP-2) payments valued at up to $14 billion. CFAP-2 focuses on losses or additional marketing costs as a result of the Coronavirus Disease 2019 (COVID-19) pandemic that were incurred during the second through fourth quarters of 2020. CFAP-2 follows a first round of payments (CFAP-1) that USDA announced at $16 billion in April 2020 for losses in the first quarter of 2020 and from which USDA had paid $10.5 billion as of December 5, 2020.

The funding and general authority to undertake the second round of CFAP payments derive from two sources: (1) the broad authority provided to USDA under the Commodity Credit Corporation (CCC) Charter Act of 1948 (P.L. 80-806; 15 U.S.C. 714 et seq.) and (2) the specific authority that Congress granted to USDA in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136). The CARES Act (signed into law on March 27, 2020) provided $9.5 billion that was used to develop CFAP-1 and replenished $14 billion of funding availability for the CCC, which together are being used for CFAP-2. According to USDA, CCC funds are being used to partially compensate producers for the continued market disruptions from the COVID-19 pandemic and to assist with the transition to a more orderly marketing system. USDA expanded the CFAP-1 eligibility criteria in an effort to include more nontraditional commodities in CFAP-2's payment distribution. Under CFAP-1, USDA required recipients to provide demonstrable economic damage from either a price decline (mid-January to mid-April) or unexpected additional marketing costs related to COVID-19 food supply chain disruptions. In contrast, under CFAP-2, USDA assumed economic damage for nearly all commodities.

To achieve greater inclusion under CFAP-2, USDA is to use three separate payment categories—price trigger, flat rate, and sales—based on the nature of available data. *Price trigger commodities* are commodities that experienced a 5% or greater price decline between January 13-17, 2020, and July 27-31, 2020, and include row crops and livestock. Payments are based on 2020 planted acres for row crops, 2019 production for broilers and eggs, 2020 milk production for dairy, and 2020 inventories for beef cattle and hogs and pigs. *Flat-rate commodities* are row crops that failed to meet the 5% price-decline criteria but had available data on eligible acres of the crop planted in 2020. A flat-rate payment would be made on the eligible acres. *Sales commodities* are those commodities that lacked sufficient price and acreage data and for which data exist on a producer's 2019 sales value of the commodity. A payment would then be available based on the sales value.

In general, CFAP-2 payments are subject to a per person and per legal-entity payment limitation of $250,000. The CFAP-2 payment limitation applies to the total amount of CFAP-2 payments made with respect to all eligible commodities of an individual or entity. However, it excludes payments made under CFAP-1 and other USDA Farm Service Agency (FSA) farm programs. As of December 5, 2020, USDA had approved 759,089 applications and made $11.6 billion in outlays under CFAP-2, with cattle and corn producers receiving the most money. The current CFAP-2 payment distribution pattern is similar to CFAP-1's distribution—that is, payments are concentrated in the Corn Belt, Texas, and California. Producers could submit applications for CFAP-2 payments through December 11, 2020.

Policy questions about the implementation of CFAP-2 payments include the following:

- Have CFAP-2 payments successfully compensated (at least partially) all producers who have experienced unexpected economic costs due to COVID-19 during the second through fourth quarters of 2020?
- Have CFAP-2 funds been distributed in a fair manner to every producer and for every commodity sector that has experienced COVID-19-related costs?
- What is the potential for duplication of payments under existing farm programs?
- What is the role for congressional monitoring and oversight of the large sums of taxpayer money that are being spent under a nontraditional authority?
- Will additional assistance be needed later this year or early in 2021?
- Will use of this nontraditional authority for such large sums of taxpayer money serve as a recurring template for future USDA payment interventions?

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Introduction

On April 17, 2020, Secretary of Agriculture Sonny Perdue announced that the U.S. Department of Agriculture (USDA) would initiate what would be the first round of direct payments under the Coronavirus Food Assistance Program (CFAP-1), valued at $16 billion, to provide immediate financial relief to farmers, ranchers, and consumers affected by the Coronavirus Disease 2019 (COVID-19) pandemic.[1] On September 18, 2020, USDA announced a second round of CFAP direct payments (CFAP-2), valued at up to an additional $14 billion.[2]

Both CFAP-1 and CFAP-2 have the same eligibility criteria and the same application process for participating producers. In addition, CFAP-1 and CFAP-2 have similar policy goals—that is, responding to the unexpected financial costs incurred by the U.S. agricultural sector due to the COVID-19 pandemic.

The two programs also differ in many ways. CFAP-2 expands the list of commodities previously eligible for payment under CFAP-1. Whereas CFAP-1 focused on providing assistance in response to damages incurred during the first quarter of 2020 on unsold production from 2019,[3] CFAP-2, according to USDA, focuses on losses or additional marketing costs incurred during the second through fourth quarters of 2020.[4] CFAP-2 uses a different pool of funding and a different methodology for determining eligibility for affected commodities, for calculating each commodity's payment rate, and for calculating the total payments to eligible producers. In addition, the two programs have separate (albeit identical) payment limits that are independent of, and separate from, payments under other USDA farm programs.

This report describes the details of CFAP-2 direct payments to the U.S. agricultural sector in response to the COVID-19 pandemic. It describes the program's funding source and authority; how the program is administered, including specific details on the calculation and implementation of payments; and the status of program outlays by commodity and by state.

Three earlier CRS reports provide information on the COVID-19 pandemic's impact on producers and consumers of U.S. agricultural products and the federal response.

1. CRS Report R46347, *COVID-19, U.S. Agriculture, and USDA's Coronavirus Food Assistance Program (CFAP)*, describes how the COVID-19 pandemic affected the U.S. food supply chain, including its deleterious impact on agricultural producers, which precipitated congressional and USDA responses.

[1] The initial Coronavirus Food Assistance Program (CFAP-1) also included the Farmers to Families Food Box program, valued at an additional $3 billion. U.S. Department of Agriculture (USDA), "USDA Announces Coronavirus Food Assistance Program," press release, April 17, 2020. For more information, see CRS Report R46347, *COVID-19, U.S. Agriculture, and USDA's Coronavirus Food Assistance Program (CFAP)*.

[2] USDA, "USDA to Provide Additional Direct Assistance to Farmers and Ranchers Impacted by the Coronavirus," press release, September 18, 2020.

[3] An exception is CFAP-1 payments for cattle, hogs and pigs, dairy, and lambs and sheep that used Commodity Credit Corporation (CCC) funding. Such payments were based on spring inventories (April 16, 2020, to May 14, 2020) and largely reflected second quarter damages.

[4] As stated in USDA, *Coronavirus Food Assistance Program 2: Cost-Benefit Analysis*, September 15, 2020, p. 1. However, for row crops, the CFAP-2 damage period is more ambiguous than under CFAP-1. This is because CFAP-2 payments for row crops are based on their 2020 planted acres, whereas most row crops are not harvested until the third or fourth quarter of 2020. Thus, USDA appears to be declaring that price declines on unharvested crops represent "damages" or "losses." The apparent flaw in this logic has been magnified by large increases to above-pre-COVID-19 levels for most row crop prices since July (as discussed in the "Issues for Congress" section of this report).

2. CRS Report R46395, *USDA's Coronavirus Food Assistance Program: Round One (CFAP-1)*, describes CFAP-1 payments and the methodology used to calculate those payments.
3. CRS Report R46432, *Food Banks and Other Emergency Feeding Organizations: Federal Aid and the Response to COVID-19*, provides general information on CFAP food purchase and distribution initiatives—the Farmers to Families Food Box program and other nutrition-related relief programs that responded to the COVID-19 pandemic.

Congress is considering providing additional support for the agricultural sector beyond CFAP-1 and CFAP-2.[5] These potential additional efforts are not discussed in this report. However, a brief discussion related to the likelihood of, or need for, a third round of CFAP payments is provided in the "Issues for Congress" section.

Report Overview

This report begins with a brief overview of CFAP-2, including its authority, funding sources, implementing agency, and the program's timeline. The next section describes the details of CFAP-2, including eligibility requirements for both producers and commodities and the payment calculations for each type of eligible commodity category. The report then reviews current data on CFAP-2 payments. It ends with a brief discussion on issues of potential interest to Congress. The report's **Appendix** includes a supplementary table, which provides details on USDA's derivation of the payment rates for commodities affected by price declines.

Details on Program Implementation

On September 22, 2020, USDA released a final rule to implement the second round of CFAP direct payments (referred to as CFAP-2), including the program authority and funding sources, as well as the application procedures and timeline.[6] These aspects of CFAP-2 are described in this section. The eligibility requirements for commodities and producers and the payment calculations for each type of commodity category are described in the following three sections.

Program Authority

The general authority to undertake both the CFAP-1 and CFAP-2 derives from two sources. First, USDA interprets the Commodity Credit Corporation (CCC) Charter Act of 1948 (P.L. 80-806; 15 U.S.C. 714 et seq.) as providing broad authority to use CCC funds to support the orderly production and marketing of agricultural commodities via normal marketing channels that have been disrupted by the COVID-19 pandemic.[7]

Second, Congress granted specific authority to USDA under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136) to develop and administer a support program

[5] See Ben Nuelle, "Bipartisan COVID relief proposal allocates $13B in ag aid," *AgriPulse*, December 9, 2020.

[6] USDA, Office of the Secretary, "Coronavirus Food Assistance Program," Final Rule, 85 *Federal Register* 59380, September 22, 2020.

[7] For a discussion of the CCC and USDA's authority under the CCC Charter Act, see CRS Report R44606, *The Commodity Credit Corporation: In Brief*.

in response to the COVID-19 pandemic.[8] In particular, USDA was to "prevent, prepare for, and respond to coronavirus by providing support to agricultural producers impacted by coronavirus, including producers of specialty crops, producers that supply local food systems, including farmers' markets, restaurants, and schools, and livestock producers, including dairy producers."[9] This approach provided funding to the Secretary of Agriculture with general authority to respond to a crisis (similarly to Congress's direction to USDA to develop a payment program from a general appropriation in response to emergency appropriations for wildfires and hurricanes in 2018 and 2019).[10] Based on these two broad authorities, USDA developed CFAP-1 and CFAP-2.

Funding Sources

On September 18, 2020, USDA announced that the CCC would provide up to $14 billion to make CFAP-2 direct payments to eligible producers to provide them with financial assistance to help absorb the continuing higher marketing costs associated with the COVID-19 pandemic. Under this attribution, USDA deems that the use of CCC funds is appropriate for all eligible commodities. As CCC funds are prohibited from being used to provide assistance to tobacco,[11] CFAP-2 payments to tobacco producers are to be funded from the remaining portion of the $9.5 billion in CARES Act funding that was originally provided to USDA as part of CFAP-1 direct payments.[12] Total CFAP-2 tobacco payments are not to exceed $100 million.

The CCC operates with a $30 billion line of credit with the U.S. Treasury, a portion of which was used in FY2020 to fund a variety of activities authorized under the 2018 farm bill, prior farm bills, and other enacted legislation.[13] USDA also tapped CCC funding to provide trade mitigation assistance to agricultural producers in FY2020 through the Market Facilitation Program.[14] Obligating CCC funds for these activities would normally have left insufficient funding available in CCC's line of credit for CFAP-2 obligations. However, when the CARES Act was signed into law on March 27, 2020, it authorized an early replenishment in FY2020 of up to $14 billion of borrowing authority for the CCC, with the understanding that the replenishment monies would not be available to Secretary Perdue until later in the year.[15] The $14 billion from the CARES Act was not new spending; rather, it reimbursed the CCC for past spending. After the funds were

[8] The Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136), Title I of Division B—Emergency Appropriations For Coronavirus Health Response And Agency Operations.

[9] USDA, "USDA Announces Coronavirus Food Assistance Program," press release, April 17, 2020. Published in USDA, Office of the Secretary, "Coronavirus Food Assistance Program," 85 *Federal Register* 30825, May 21, 2020.

[10] For example, see CRS In Focus IF11245, *FY2019 Supplemental Appropriations for Agriculture*.

[11] USDA support for tobacco programs was terminated at the end of crop year 2004, following USDA's buyout of the U.S. tobacco quota system under the Fair and Equitable Tobacco Reform Act of 2004 (P.L. 108-357). In addition, USDA is prohibited by language in annual appropriations law from spending funds to help promote tobacco exports and conduct research relating to the production, processing, or marketing of tobacco and tobacco products. See CRS Report 97-417 ENR, *Tobacco-Related Programs and Activities of the U.S. Department of Agriculture: Operation and Cost*, available to congressional clients upon request; and Government Accountability Office (GAO), *USDA's Foreign Agricultural Service Lacks Specific Guidance for Congressional Restrictions on Promoting Tobacco*, GAO-03-618, May 2003.

[12] As of November 15, 2020, USDA had made CFAP-1 payments of $10.42 billion, thus leaving unspent a substantial portion of the $16 billion in funding provided by the CARES Act.

[13] By law, the CCC receives an annual appropriation equal to the amount of the previous year's net realized loss. This replenishes its borrowing authority from Treasury and allows it to cover authorized expenditures that will not be recovered. See CRS Insight IN10941, *Commodity Credit Corporation: Q&A*.

[14] See CRS Report R45865, *Farm Policy: USDA's 2019 Trade Aid Package*.

[15] CARES Act (P.L. 116-136), Title I, §11002 of Division B—Emergency Appropriations For Coronavirus Health Response And Agency Operations.

transferred, which required waiting for a June 2020 financial statement, the CCC had renewed access to more funding for future obligations, including CFAP-2.

Table 1. Funding Sources for CFAP-1 and CFAP-2

$ billion

	CFAP-1	CFAP-2	Total
CCC Charter Act[a]	6.5	14.0	20.5
CARES Act[b]	9.4	0.1	9.5
Total	15.9	14.1	30.0

Sources: CRS Report R46395, *USDA's Coronavirus Food Assistance Program: Round One (CFAP-1)*; and U.S. Department of Agriculture (USDA), "USDA to Provide Additional Direct Assistance to Farmers and Ranchers Impacted by the Coronavirus," press release, September 18, 2020.

Notes: All funds shown in this table were obligated in FY2020.

a. The Commodity Credit Corporation (CCC) operates with a $30 billion line of credit with the U.S. Treasury, which is used to implement USDA farm programs with mandatory funding.

b. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136) authorized $9.5 billion in support of the first round of direct payments under the Coronavirus Food Assistance Program (CFAP-1). Unspent funds from CFAP-1's $9.5 billion are to be carried forward to the second round of CFAP direct payments (CFAP-2) and used for tobacco payments. The CARES Act also authorized an early replenishment in FY2020 of up to $14 billion of borrowing authority for the CCC, with the understanding that the replenishment monies would not be available to USDA until after June 2020.

Implementing Agency and Timeline

As with CFAP-1, USDA's Farm Service Agency (FSA) is the principal agency charged with implementing CFAP-2's direct payment program. In its September 22 final rule, USDA stated that the FSA would accept applications—beginning on September 21, 2020, and ending December 11, 2020—from "producers of agricultural commodities who face continuing market disruptions, low farm-level prices, and significant marketing costs."[16]

Eligibility Criteria for Commodities

CFAP-2 expands the list of commodities eligible for payment under CFAP-1. USDA determined eligibility criteria for CFAP-2 in a similar manner to that of CFAP-1, but with some differences.

During the first round of payments (CFAP-1), eligible commodities had to have incurred at least a 5% or greater price decline between January 13-17, 2020, and April 6-9, 2020, as an indicator of COVID-19-related sales losses,[17] or unexpectedly higher marketing costs, including possible spoilage on lost sales due to COVID-19-related supply chain disruptions.[18] For some commodities, USDA determined the extent of marketing costs and spoilage losses based on its review of applicant submissions data. USDA received comments on a range of commodities—

[16] USDA, Office of the Secretary, "Coronavirus Food Assistance Program," Final Rule, 85 *Federal Register* 59380, September 22, 2020. For up-to-date program information on CFAP-2, including application forms, assistance with applying, and payment processing information, visit USDA's Farm Service Agency (FSA) web portal for CFAP at https://www.farmers.gov/cfap.

[17] The mid-January period is reflective of pre-COVID-19 market conditions. The price decline from mid-January to early April is a measure of the COVID-19-related first quarter price impact.

[18] For details, see CRS Report R46395, *USDA's Coronavirus Food Assistance Program: Round One (CFAP-1)*.

many without sufficient data to determine if these crops suffered eligible losses due to the effects of COVID-19.

After the first round of payments were made, several commodity groups criticized USDA. According to these groups, the criteria had been applied too strictly, such that several commodities (primarily specialty crops) that had suffered COVID-19-related economic injury had been excluded from eligibility for CFAP-1 payments.[19] Many specialty crops are grown under contract or are targeted to local markets or end users, such that data are not readily available regarding prices and marketing costs.[20] As a result, many specialty crops were deemed ineligible for CFAP-1 payments. Also, several commodity groups that had been deemed eligible for payments by USDA contended that they did not receive sufficient or meaningful payments because the formula used by USDA to calculate sales losses or COVID-19-related marketing costs did not fully reflect the additional costs incurred due to the COVID-19 pandemic.[21]

USDA responded to these criticisms by applying a more expansive interpretation of payment eligibility under CFAP-2 than had been applied under CFAP-1, and implementing a simpler methodology for calculating the CFAP-2 payments for specialty crops.

Three Categories of Eligible Commodities

Under CFAP-2, eligible commodities are broadly identified as those commodities that faced continuing market disruptions, low farm-level prices, and significant market costs due to the COVID-19 pandemic. USDA stated that significant marketing costs could be associated with declines in demand, surplus production, or disruptions to shipping patterns and the orderly marketing of commodities.[22] Under this guidance, and to facilitate the development of inclusive payment formulas, USDA established three commodity payment categories—*price-trigger commodities*, *flat-rate commodities*, and *sales commodities*—each with its own eligibility criteria and payment formula.[23]

Price Trigger Commodities

For commodities for which price data were available, USDA assessed whether at least a 5% or greater price decline had occurred between January 13-17, 2020, and July 27-31, 2020.[24] Commodities that met the 5% price reduction criteria of CFAP-2 tended to be major program crops and livestock products for which national price data were readily available.[25] These qualifying commodities were identified as "price trigger commodities" and include barley, corn,

[19] In particular, small farmers, processed food commodities (e.g., raisins), and aquaculture were noticeably underserved by CFAP-1. See the discussion in the "Issues for Congress" section in CRS Report R46359, *COVID-19 and Private Health Insurance Coverage: Frequently Asked Questions*; Brad Hooker, "Smaller Farmers Are 'Left Out' of Aid Programs," *AgriPulse*, June 6, 2020 (hereinafter Hooker, "Smaller Farmers Are 'Left Out,'" 2020); and Letter from House Agriculture Chairman Collin Peterson to USDA Secretary Sonny Perdue, June 9, 2020.

[20] Hooker, "Smaller Farmers Are 'Left Out,'" 2020.

[21] Hooker, "Smaller Farmers Are 'Left Out,'" 2020.

[22] USDA, "Coronavirus Food Assistance Program," Final Rule, 85 *Federal Register* 59380, September 22, 2020.

[23] See **Table 2** for a list of eligible commodities under each payment category.

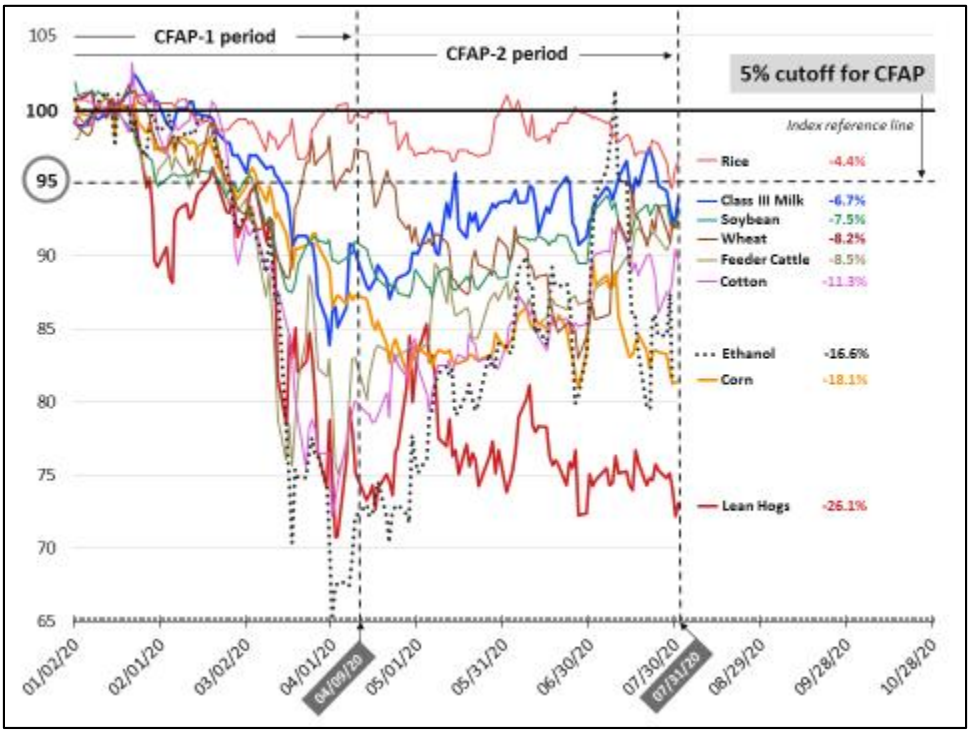
[24] The mid-January period is reflective of pre-COVID-19 market conditions. The price decline from mid-January to late July is a measure of the COVID-19-related price impact through the second quarter of 2020.

[25] The CFAP-2 payment calculation for price-trigger commodities is described in **Table 3**.

sorghum, soybeans, sunflowers, upland cotton, wheat (all classes), broilers, eggs, beef cattle, dairy, hogs and pigs, and lambs and sheep.

CFAP-2 payments for these price-trigger commodities would then be based on 2020 planted acres for row crops; 2019 production for broilers and eggs; 2020 inventories for beef cattle and hogs and pigs; and milk production during selected periods in 2020 (described below) for dairy. This is in contrast to CFAP-1 price-loss payments, which were based on first-quarter sales or unpriced inventories of 2019 production. Also, the mid-January to late-July period used to evaluate CFAP-2 price declines represents a longer price-evaluation period than was used under CFAP-1 and reflects an attempt to quantify the second quarter effects of prolonged lower prices (**Figure 1**).[26] However, as with CFAP-1, this is a relatively short time frame for assessing loss due to price declines. Losses defined under this time frame may be relevant for perishable crops or livestock inventories that require substantial maintenance costs when markets are unexpectedly blocked. This time frame is possibly more questionable for row crops that had yet to be harvested—and thus have not yet incurred any loss—and that can be stored for years without losing market value.[27]

Figure 1. Commodity Price Indexes, January 13-17=100, through July 31, 2020



Sources: Compiled by CRS using futures contract closing prices from the Chicago Mercantile Exchange (CME)—the November 2020 contract was used for feeder cattle, rough rice, and soybeans, and the December

[26] **Figure 1** uses indexes based on futures contract prices as an indicator of the commodity price declines that occurred during the CFAP-2 evaluation period from mid-January to late July. USDA based the actual CFAP-2 price decline calculations on national farm prices, not on futures price indexes. These price indexes are included here as a visual aid for the reader to understand the general commodity price movements that have occurred during 2020.

[27] Traditional farm programs—such as Price Loss Coverage (PLC) and Agricultural Risk Coverage (ARC)—use an average price calculated for the entire marketing year and compare it against a reference price (PLC) or a historical moving average (ARC); in contrast, the Market Facilitation Program (MFP) used a statistical model to evaluate the trade damage resulting from retaliatory tariffs. See CRS Report R45730, *Farm Commodity Provisions in the 2018 Farm Bill (P.L. 115-334)*; and CRS Report R45310, *Farm Policy: USDA's 2018 Trade Aid Package*.

contract was used for lean hogs, Class III Milk, corn, and wheat (Soft Red Wheat, Chicago). For Upland Cotton (#2), the December contract from the New York Mercantile Exchange (NYMEX) was used.

Notes: The price index differences, displayed as percentages in the chart, compare the difference between the January 13-17, 2020, average price index and the July 27-31, 2020, average price index. The price indexes are not adjusted for seasonality.

For all other commodities that did not meet the 5%-price decline criteria, or did not have data available to calculate a price change, USDA relied on producer or industry submissions to determine eligibility and calculate the relevant payment rate—such commodities are eligible for CFAP-2 payments under two alternate payment categories: flat-rate crops and sales commodities.

Flat-Rate Crops

For field or row crops with available data, a flat-rate payment was available based on eligible acres of the crop planted in 2020.[28] Eligible flat-rate crops include alfalfa, Extra Long Staple (ELS) cotton, oats, peanuts, and rice, as well as some crops with relatively small acreage—such as amaranth grain, buckwheat, canola, crambe (colwort), einkorn, emmer, flax, guar, hemp, indigo, industrial rice, kenaf, Khorasan, millet, mustard, oats, peanuts, quinoa, rice, sweet rice, wild rye, safflower, sesame, speltz, sugar beets, sugarcane, teff, triticale, and rapeseed.

Sales Commodities

For those commodities that lacked both price and acreage data, a final payment category was available based on a producer's 2019 sales value of the commodities. Sales commodities include fruits and vegetables; aquaculture grown in a controlled environment; nursery crops and floriculture; other livestock (excluding breeding stock) not included under the price trigger category that were grown for food, fiber, fur (but not pelts), or feathers; tobacco; goat milk; mink (including pelts); mohair; wool; horticulture commodities; tree nuts; honey; and maple sap.[29]

Special Consideration for New or Beginning Farmers and Ranchers

Payments cannot be calculated using the methods described above for producers of broilers, eggs, and sales commodities by producers who began farming in 2020 and had no 2019 production or sales. Payments for such producers will be based on the producer's actual 2020 production or sales as of the date the producer submits an application for payment.

Ineligible Commodities

Only commercially produced commodities are eligible for CFAP payments. Hay, except alfalfa, and any crops that were intended for grazing are excluded from eligibility for CFAP. Similarly, birdsfoot and trefoil, clover, cover crop, fallow, forage soybeans, forage sorghum, gardens (commercial and home), grass, kochia (prostrata), lespedeza, milkweed, mixed forage, pelts (excluding mink), perennial peanuts, pollinators, sunn hemp, vetch, and seed of ineligible crops are ineligible for CFAP-2 payments. All equine, breeding stock, companion or comfort animals, pets, and animals raised for hunting or game purposes are excluded from eligibility.

[28] Eligible acres include the producer's share of acres (as determined or reported via form FSA-578, Report of Acreage) of the crop planted in 2020, excluding prevented planted and experimental acres.

[29] For a complete list of eligible sales commodities, see **Table 2**.

Table 2. CFAP-2: Eligible Commodities by Category

Category	Commodities[a]
Price-Trigger Commodities	
	Commodities where at least a 5% or greater price decline occurred between January 13-17, 2020, and July 27-31, 2020. Qualifying price-trigger commodities include the following:
	Crops: barley, corn, sorghum, soybeans, sunflowers, upland cotton, and wheat (all classes)
	Broilers: any chicken that has been commercially produced for meat purposes that has left the farm for slaughter and was not used for laying or breeding purposes
	Eggs: dried, frozen, liquid, and shell eggs
	Dairy: cow's milk
	Livestock: beef cattle, hogs and pigs, and lambs and sheep
Flat-Rate Crops	
	For field or row crops with available data, a flat-rate payment was available based on eligible acres of the crop planted in 2020. Qualifying flat-rate commodities include the following:
	Crops with relatively large acreage: Alfalfa, canola, oats, peanuts, rice, sugar beets, and sugarcane
	Crops with relatively small acreage: amaranth grain, buckwheat, crambe (colwort), einkorn, emmer, Extra Long Staple (ELS) cotton, flax, guar, hemp, indigo, industrial rice, kenaf, Khorasan, millet, mustard, quinoa, sweet rice, wild rye, safflower, sesame, speltz, teff, triticale, and rapeseed
Sales Commodities	
	For those commodities that lacked both price and acreage data, a final payment category was available based on a producer's 2019 sales value of the commodity. Qualifying sales commodities include the following:
	Aquaculture: any species of aquatic organisms grown as food for human consumption; fish raised as feed for fish that are consumed by humans; and ornamental fish propagated and reared in an aquatic medium. Eligible aquaculture species must be raised by a commercial operator and in water in a controlled environment.[b]
	Nursery crops: decorative or nondecorative plants grown in a container or controlled environment for commercial sale, including cactus and Christmas trees
	Floriculture: cut flowers and cut greenery from annual and perennial flowering plants grown in a container or controlled environment for commercial sale
	Horticulture: anise, basil, cassava, chervil (fresh parsley), chia, chicory (radicchio), cilantro, cinnamon, curry leaves, galanga, ginger, ginseng, guayule, herbs, hops, lotus root, marjoram, meadowfoam, mint, moringa, niger seed, oregano, parsley, pennycress, peppermint, pohole, psyllium, rosemary, sage, savory, shrubs (forbs), sorrel, spearmint, tangos, tea, thyme, turmeric, vanilla, wasabi, water cress, and yu cha
	Tree nuts: almonds, avocados, carob, cashew, chestnuts, coffee, hazel nuts, jojoba, macadamia nuts, noni, olives, pecans, persimmons, pine nuts, pistachios, quinces, and walnuts
	Fruit: abiu, acerola (Barbados cherry), achachairu, antidesma, apples, apricots, aronia (chokeberry), atemoya (custard apple), bananas, blueberries, breadfruit, cacao, caimito, calabaza melon, canary melon, canary seed, caneberries, canistel, cantaloupes, carambola (star fruit), casaba melon, cherimoya (sugar apple), cherries, Chinese bitter melon, citron, citron melon, coconuts, cranberries, crenshaw melon, dates, donaqua (winter melon), durian, elderberries, figs, genip, gooseberries, grapefruit, grapes, ground cherry, guamabana (soursop), guava, guavaberry, honeyberries, honeydew, huckleberries, Israel melons, jack fruit, jujube, juneberries, kiwiberry, kiwifruit, Korean golden melon, kumquats, langsat, lemons, limequats, limes, longan, loquats, lychee, mangos, mangosteen, mayhaw berries, mesple, mulberries, nectarines, oranges, papaya, passion fruits, pawpaw, peaches, pears, pineapple, pitaya (dragon fruit), plantain, plumcots, plums, pomegranates, prunes, pummelo, raisins, rambutan, sapodilla, sapote, schizandra berries, sprite melon, star gooseberry, strawberries, tangelos, tangerines, tangors, wampee, watermelon, wax jamboo fruit, and wolfberry (goji)

Category	Commodities[a]
	Vegetables: alfalfa sprouts, aloe vera, artichokes, arugula (greens), asparagus, bamboo shoots, batatas, bean sprouts, beans (including dry edible), beets, bok choy, broccoflower, broccoli, broccolini, broccolo-cavalo, Brussel sprouts, cabbage, calaloo, carrots, cauliflower, celeriac, celery, chickpea (see beans, garbanzo), chives, collard greens, coriander, corn, sweet, cucumbers, daikon, dandelion greens, dasheen (taro root, malanga), dill, eggplant, endive, escarole, frisee, gailon (gai lein, Chinese broccoli), garlic, gourds, greens, horseradish, Jerusalem artichokes (sunchoke), kale, kohlrabi, leeks, lentils, lettuce, melongene, mesculin mix, microgreens, mushrooms, okra, onions, parsnip, peas (including dry edible), pejibaye (heart of palm), peppers, potatoes, sweet potatoes, pumpkins, radicchio, radishes, rhubarb, rutabaga, salsify (oyster plant), scallions, seed-vegetable, shallots, spinach, squash, swiss chard, tannier, taro, tomatillos, tomatoes, truffles, turnip top (greens), turnips, yam, and yautia (malanga)
	Other livestock: animals (excluding breeding stock) not included under the price trigger category that were commercially raised for food, fur, fiber, or feathers, including alpacas, bison, buffalo, beefalo, deer, ducks, elk, emus, geese, goats, guinea pigs, llamas, mink, ostrich, pheasants, quail, rabbits, reindeer, and turkey
	Other: tobacco, goat milk, mink (including pelts), mohair, wool, and honey and maple sap
Ineligible Commodities	
	Hay, except alfalfa, and any crops that were intended for grazing
	Birdsfoot and trefoil, clover, cover crop, fallow, forage soybeans, forage sorghum, gardens (commercial and home), grass, kochia (prostrata), lespedeza, milkweed, mixed forage, pelts (excluding mink), perennial peanuts, pollinators, sunn hemp, vetch, and seed of ineligible crops
	All equine, breeding stock, companion or comfort animals, pets, and animals raised for hunting or game purposes

Sources: USDA, Office of the Secretary, "Coronavirus Food Assistance Program," Final Rule, 85 *Federal Register* 59380, September 22, 2020. See also USDA, Farm Service Agency (FSA), "Coronavirus Food Assistance Program 2," fact sheet, October 1, 2020.

Notes:

a. Only commercially produced commodities are eligible. Furthermore, only commodities produced in the United States are eligible for payments. Commodities other than livestock that are imported into the United States may not be used to determine any payment made under CFAP. For livestock, "produced in the United States" means physically located in the United States (7 C.F.R. Part 9, §9.1(a)).

b. This includes molluscan shellfish and seaweed, which were previously covered under the U.S. Department of Commerce program.

Payment Formulas Vary by Commodity Category

According to USDA, CCC funds are to be used to partially compensate producers for the continued market disruptions from the COVID-19 pandemic and to assist with the transition to a more orderly marketing system.[30] To accomplish this goal, USDA developed separate payment formulas for each of the three payment categories—price trigger, flat-rate, and sales.

Price Trigger Commodities

A common feature for all of the price trigger commodities is that each commodity experienced at least a 5% or greater price decline from mid-January to late July (**Table A-1**). USDA then calculated each commodity's payment rate as 80% of the calculated price decline.[31] However, the subsequent CFAP-2 payment formula for eligible price trigger commodities is tailored to the

[30] With the exception of tobacco, for which USDA will use CARES Act funds, not to exceed $100 million.

[31] The 80% coverage factor, not mentioned in USDA's September 22 final rule, is discussed in the *CFAP-2 Cost-Benefit Analysis*. USDA has provided no explanation for the 80% coverage factor.

nature of the commodity, with separate formulas for crops, broilers and eggs, dairy (cow's milk), and livestock (beef cattle, hogs and pigs, and lambs and sheep).

Price Trigger Crops

For price trigger crops (see **Table 2**), the payment rate is to be applied to 2020 planted acres of the crop, excluding prevented planting and experimental acres, to determine a potential payment. USDA included a payment floor of $15 per acre as part of the payment formula for price trigger crop producers. Thus, the CFAP-2 payment for a price trigger crop would be the greater of either the eligible acres multiplied by a payment rate of $15 per acre or the eligible acres (**Table 3**, column B) multiplied by both a nationwide crop marketing percentage (**Table 3**, column C)[32] and a crop-specific payment rate (**Table 3**, column D), and then multiplied by the producer's approximated crop yield for 2020 (**Table 3**, column E).[33]

In contrast, under CFAP-1, both the price-loss and market-cost payment rates for row crops were applied to the unpriced inventory from 2019 production as of January 15, 2020.[34] Again, this contrast is significant in that 2020 crops receiving CFAP-2 payments were still unharvested during the price-loss period of January 13-17 and July 27-31, thus, they had not yet incurred any losses. Furthermore, subsequent changes in market conditions since mid-August have contributed to farm prices moving substantially higher through the end of 2020, thus offsetting much, if not all, of the price declines of the first half of the year (discussed in the "Will the Agricultural Sector Need Additional Assistance?" section).

Other Price Trigger Commodities

For broilers and eggs, payments are to be based on 75% of the producers' 2019 production multiplied by a per-unit payment rate (**Table 3**).[35]

CFAP-2 dairy payments are to be based on the payment rate of $1.20 per hundredweight (cwt) multiplied by the sum of the farm operation's milk production during two periods: (1) April 1, 2020, to August 31, 2020, and (2) September 1, 2020, to December 31, 2020.[36] Since the second period extends beyond the CFAP-2 application deadline of December 11, 2020, USDA's FSA will estimate milk production for the second period by multiplying the producer's daily average milk production during the first period by the number of days the dairy operation expects to commercially market milk during the second period.

Eligible beef cattle, hogs and pigs, and lambs and sheep CFAP-2 payments are to be based on the maximum owned inventory of eligible livestock—but subject to a maximum number of head and excluding breeding stock—on a date selected by the producer between April 16, 2020, and August 31, 2020, times a per-head payment rate (**Table 3**). The limitation on CFAP-2 payments for livestock by capping the number of eligible animals did not exist under CFAP-1.

[32] The national average share of the crop marketed from the start of the 2020/21 marketing year through the end of calendar year 2020. The marketing year begins June 1 for barley and wheat; August 1 for upland cotton and sunflowers; and September 1 for corn, sorghum, and soybeans.

[33] See table note "b" in **Table 3** for details on deriving the applicable crop yield.

[34] CRS Report R46395, *USDA's Coronavirus Food Assistance Program: Round One (CFAP-1)*.

[35] Broilers and eggs in the shell were not eligible for CFAP-1 payments. Liquid and frozen eggs were eligible for CFAP-1 payments based on their first quarter 2020 production.

[36] CFAP-1 price-loss payments for dairy producers were based on first quarter 2020 milk production.

Table 3. CFAP-2 Payment Formula for Price Trigger Commodities

(A) Commodity	(B) Unit	(C) Marketing Percentage[a]	(D) Payment Rate[b] ($/unit)	(E) Yield per Acre[c]
Row Crops				
Barley	2020 planted acres	63%	$0.54	Bushels
Corn	2020 planted acres	40%	$0.58	Bushels
Cotton, Upland	2020 planted acres	46%	$0.08	Bushels
Sorghum	2020 planted acres	55%	$0.56	Bushels
Soybeans	2020 planted acres	54%	$0.58	Bushels
Sunflowers	2020 planted acres	44%	$0.02	Bushels
Wheat (all classes)	2020 planted acres	73%	$0.54	Bushels
Other Commodities: Broilers and Eggs,[d] Dairy, and Livestock				
Broilers	head of 2019 production	75%	$1.01	NA
Eggs, Shelled	dozen of 2019 production	75%	$0.05	NA
Eggs, Liquid	pounds of 2019 production	75%	$0.04	NA
Eggs, Dried	pounds of 2019 production	75%	$0.14	NA
Eggs, Frozen	pounds of 2019 production	75%	$0.05	NA
Dairy (cow's milk)	hundred pounds of eligible production[e]	100%	$1.20	NA
Beef Cattle	head of eligible production[f]	100%	$55.00	NA
Hogs and Pigs	head of eligible production[g]	100%	$23.00	NA
Lambs and Sheep	head of eligible production[h]	100%	$27.00	NA

Source: USDA, Office of the Secretary, "CFAP," Final Rule, 85 *Federal Register* 59380, September 22, 2020.

Notes: NA = not applicable. For row crops, the CFAP-1 payment = (B) x (C) x (D) x (E); for other commodities, the CFAP-1 payment = (B) x (C) x (D).

a. National average share of the crop marketed from the start of the 2020/21 marketing year through the end of calendar year 2020. The marketing year begins June 1 for barley and wheat; August 1 for upland cotton and sunflowers; and September 1 for corn, sorghum, and soybeans.

b. The payment rate equals 80% of the price decline from January 13-17, 2020, to July 27-31, 2020.

c. To approximate 2020 yields, USDA used the weighted Actual Production History (APH) approved yield from the federal crop insurance program. For details, see CRS Report R45193, *Federal Crop Insurance: Program Overview for the 115th Congress*. A producer will have a distinct APH on each insured unit on which a commodity is produced. These different APHs are weighted by the acres of each unit to produce a weighted APH for a producer. If the APH is unavailable, then 85% of the 2019 Agriculture Risk Coverage-County Option (ARC-CO) benchmark yield for that crop will be used. For details, see CRS Report R45730, *Farm Commodity Provisions in the 2018 Farm Bill (P.L. 115-334)*.

d. CFAP-1 payments for egg are to the producers, not the processors. The egg categories are for producers supplying different segments of the egg market.

e. The sum of the farm operation's milk production during two periods: (1) April 1, 2020, to August 31, 2020, and (2) September 1, 2020, to December 31, 2020. FSA will estimate milk production for the second period by multiplying the producer's daily average milk production during the first period by the number of days the dairy operation expects to commercially market milk during the second period.

f. The lower of (1) maximum owned inventory of eligible beef cattle, excluding breeding stock, on a date selected by the producer between April 16, 2020, and August 31, 2020; or (2) 4,546 head.

g. The lower of (1) maximum owned inventory of eligible hogs and pigs, excluding breeding stock, on a date selected by the producer between April 16, 2020, and August 31, 2020; or (2) 10,870 head.

h. The highest owned inventory of eligible lambs and sheep, excluding breeding stock, on a date selected by the producer between April 16, 2020, and August 31, 2020.

In contrast to CFAP-2, CFAP-1 used both inventories and sales to calculate payments to livestock producers. Price-loss payments were based on the quantity sold during the first quarter of 2020 (as approximated by using data for the January 15, 2020, to April 15, 2020, period), and market-cost payments were based on their maximum unpriced inventory during the April 16, 2020, to May 14, 2020, period. CFAP-2 payments are based uniquely on inventories, not sales, and the inventory period overlaps with the CFAP-1 inventory period. As a result, some livestock inventories could be paid twice for the same price decline.

Flat-Rate Crops

Commodities that did not experience a 5% or greater price decline but continue to experience COVID-19-related marketing costs and are able to provide information on 2020 planted acres may be eligible for a flat-rate payment.[37] Such commodities are referred to as flat-rate crops. For flat-rate crops, USDA calculates the CFAP-2 payment as $15 per acre for a producer's eligible acres.[38] The choice of $15 per acre reflects the continuation of the flat rate of $15 per acre that USDA used as a floor payment rate for price trigger crops (as described earlier) and for major crops (corn, upland cotton, sorghum, soybeans, and wheat) under the 2019 Market Facilitation Program.[39]

Sales Commodities

Producers of commodities that did not have a 5% or greater price decline, and who do not have data on 2020 planted acres, are eligible for payments based on the value of their 2019 sales (used as a proxy for 2020 sales) for an extensive list of USDA-designated eligible commodities. For such sales commodities, payments are to be calculated using a percentage of 2019 farm sales of the commodity based on five payment gradations (**Table 4**).

Producers compare their total sales of eligible commodities from 2019 against the payment ranges in **Table 4**: the first $49,999 of sales receives a payment of 10.6%; the next $50,000 in sales (from $50,000 to $99,999) receives a payment of 9.9%, etc. **Table 5** provides five examples of CFAP-2 sales commodity payment calculations under increasing sales values.

Many specialty crops are expected to receive CFAP-2 payments under the sales commodity method. Under CFAP-1, specialty crop producers could receive payments under three different methods: (1) a price-loss payment based on the quantity sold during the first quarter of 2020;[40] (2)

[37] USDA has deemed the announced commodities listed in **Table 2** as being eligible under one of the three payment methods. Producers do not have to document any loss; instead, they must document planted acres or 2019 sales per the relevant payment method.

[38] Eligible acres included the producer's share of acres (as determined or reported via form FSA-578, Report of Acreage) of the crop planted in 2020, excluding prevented planted and experimental acres.

[39] CRS Report R45865, *Farm Policy: USDA's 2019 Trade Aid Package*. USDA also contends that $15 per acre generally falls along the lower end of the distribution for CFAP-2 price triggered crops. USDA, *Coronavirus Food Assistance Program 2: Cost-Benefit Analysis*, September 15, 2020.

[40] The first quarter was approximated by using data for the January 15, 2020, to April 15, 2020, period.

a market-cost payment based on the unpriced inventory on the farm (including unharvested commodities); and (3) a spoilage payment based on shipped quantity that spoiled before the purchase contract's completion and subsequently received no payment.[41]

Table 4. CFAP-2 Payment Rate for Sales Commodities by Sales Range

2019 Sales Range	Percent Payment Factor
Up to $49,999	10.6%
$50,000 to $99,999	9.9%
$100,000 to $499,999	9.7%
$500,000 to $999,999	9.0%
All sales over $1 million	8.8%

Source: USDA, Office of the Secretary, "CFAP," Final Rule, 85 *Federal Register* 59380, September 22, 2020.

Notes: Producers are to self-certify their 2019 commodity sales to their local FSA office. Eligible sales include only sales of raw commodities grown by the producer. The portions of sales derived from adding value to the commodity, such as processing and packaging, and from sales of products purchased for resale are not included in the payment calculation unless determined eligible by the Secretary. The percent payment factors are based on regression analysis estimating variable crop expenses as a proportion of fruit, vegetable, and nut sales, using data from USDA's 2018 Agricultural Resource Management Survey. For details, see the discussion in USDA, *Coronavirus Food Assistance Program 2: Cost-Benefit Analysis*, September 15, 2020, pp. 20-21 and p. 21, footnote 8.

Table 5. CFAP-2 Calculations for Five Hypothetical Sales Commodity Producers

assuming different levels of 2019 sales of eligible commodities

		Sales Tranches and Payment Rates						
Scen-ario	2019 Sales	Sales <$50K (10.6%)	$50K to $99,999 (9.9%)	$100K to $499,999 (9.7%)	$500K to $999,999 (9.0%)	Sales $1M or more (8.8%)	Total Gross Payment[a]	Effective Rate[b]
	(A)	(B)[c]	(C)[d]	(D)[e]	(E)[f]	(F)[g]	(G)	(H)
1	$8,265	$876	—	—	—	—	$876	10.6%
2	$66,187	$5,300	$1,603	—	—	—	$6,903	10.4%
3	$220,737	$5,300	$4,950	$11,712	—	—	$21,962	9.9%
4	$686,650	$5,300	$4,950	$38,800	$16,798	—	$65,848	9.6%
5	$3,978,421	$5,300	$4,950	$38,800	$45,000	$262,101	$356,151	6.3%

Source: Reproduced from Table 11 in USDA, Office of the Secretary, "CFAP," Final Rule, 85 *Federal Register* 59380, September 22, 2020.

Notes: K = thousands; M = millions.

a. Total gross payments (G) equals the sum of payments by tranche, that is (B)+(C)+(D)+(E)+(F).

[41] CRS Report R46395, *USDA's Coronavirus Food Assistance Program: Round One (CFAP-1)*.

b. Total gross payments (G) as a share of 2019 sales value (A), that is (G)/(A).
c. Under Tranche 1 (sales< $50,000), that is column (B): scenario 1 is ($8,265 x 10.6%) = $876; scenarios 2-5 are ($49,999 x 10.6%) = $5,300).
d. Under Tranche 2 ($50,000 to $99,999), that is column (C): scenario 1 is empty; scenario 2 is ($16,188 x 9.9%) = $1,603; scenarios 3-5 are ($49,999 x 9.9%) = $4,950.
e. Under Tranche 3 ($100,000 to $499,999), that is column (D): scenarios 1-2 are empty; scenario 3 is ($120,738 x 9.7%) = $11,712; scenarios 4-5 are ($399,999 x 9.7%) = $38,800.
f. Under Tranche 4 ($500,000 to $999,999), that is column (E): scenarios 1-3 are empty; scenario 4 is ($186,651 x 9.0%) = $16,798; scenario 5 is ($499,999 x 9.0%) = $45,000.
g. Under Tranche 5 ($1 million or greater), that is column (F): scenarios 1-4 are empty; scenario 5 is ($2,978,422 x 8.8%) = $262,101.

Eligibility Criteria for Producers

According to USDA rules, to qualify for a CFAP-2 payment, an eligible individual or legal entity must meet the below criteria.[42] CFAP payments are not to be made until all eligibility documentation has been received.

- Each producer or legal entity of qualifying commodities must complete a CFAP-2 application form and provide any required documentation.[43]
- A producer must share in the risk of producing a qualifying crop or livestock.[44] A contract grower who does not own the livestock is to be considered a producer if the contract allows the grower to have risk in the livestock.
- A producer must be in the business of farming at the time of the application.
- A producer must be in compliance with conservation provisions—including highly erodible land conservation (Sodbuster) and wetland conservation (Swampbuster) provisions.[45]
- A producer must be either a U.S. citizen or a resident alien; however, a foreign person may qualify if that person provides sufficient land, capital, and active personal labor to the farming operation. USDA has established that 400 hours of active personal labor or active personal management meet this standard.[46]
- There is no requirement to have crop insurance coverage or coverage under the Noninsured Crop Disaster Assistance Program.

[42] These criteria apply equally to both CFAP-1 and CFAP-2 payments but with references to different periods—first quarter 2020 for CFAP-1 versus second through fourth quarter 2020 for CFAP-2. The criteria are restated here with reference to CFAP-2.

[43] The required USDA application forms are available at USDA, CFAP-2, "Assistance with Applying," at https://www.farmers.gov/cfap. The application forms also are described in Appendix Table A.5 in CRS Report R46395, *USDA's Coronavirus Food Assistance Program: Round One (CFAP-1)*.

[44] In addition, a producer applying for CFAP-2 assistance for a crop under either the price trigger or flat-rate categories must file a report of all acreage of the crop on FSA-578, Report of Acreage.

[45] See CRS Report R42459, *Conservation Compliance and U.S. Farm Policy*.

[46] Under traditional farm support programs, payment recipients must meet different eligibility requirements, including the following: for active personal labor—the smaller of at least 1,000 hours per calendar year or 50% of the total hours needed to run the farm operation; for active personal management—at least (a) 25% of total management hours of the operation; or (b) at least 500 hours of management annually; or (c) a combination of labor and management hours as defined by a USDA schedule. See CRS Report R46248, *U.S. Farm Programs: Eligibility and Payment Limits*.

- A person or legal entity, other than a joint venture or general partnership,[47] is ineligible for payments if the person's or legal entity's average adjusted gross income (AGI)—using the average of the AGIs for the 2016, 2017, and 2018 tax years—is more than $900,000, unless at least 75% of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities.
- A producer must not have a controlled substance violation.

Producer Data Subject to Verification

As with CFAP-1, producers are expected to self-certify their sales and inventories that are used to calculate CFAP-2 payments.[48] Producers who are approved for participation in CFAP-2 are required to retain documentation in support of their application for three years after the date of approval. This includes records and paperwork to demonstrate losses, especially for producers who have destroyed their product (e.g., dumping of milk or plowing under specialty crops). Participants receiving CFAP payments, or any other person who furnishes such information to USDA, must permit authorized representatives of USDA or the Government Accountability Office (GAO) to enter, during regular business hours, the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

Payment Limits

CFAP-2 payment limits are identical to those of CFAP-1; however, they are separate from and independent of both CFAP-1 payment limits and other farm program payment limits. In general, CFAP-2 payments are subject to a per-person and per-legal-entity payment limitation of $250,000,[49] which is expected to result in some eligible commodity producers not receiving the entire calculated CFAP-2 payment. For example, USDA projects that based on its CFAP-2 payment formula without payment limits, $18.6 billion in CFAP-2 payments would be made.[50] However, after applying the CFAP payment limit criteria, USDA projects that a net of $13.2 billion in CFAP-2 payments would be made.

Unlike payment limits for other FSA programs where corporate entities are limited to a single payment limit,[51] USDA has elected to apply special payment limitation rules to CFAP-1 and CFAP-2 participants that are corporations, limited liability companies, and limited partnerships. In the case of CFAP-2 payments, under the special payment limitation rules, corporate entities may receive payments up to $750,000 if three or more different individual owners or shareholders of the legal entity each contributed at least 400 hours of active personal labor or active personal management (or combination thereof) with respect to the production of either 2019 or 2020 commodities—the relevant year varies with different commodities, as described above.[52]

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[47] With respect to joint ventures and general partnerships, this adjusted gross income (AGI) provision would be applied to each member of the joint venture and general partnership.

[48] USDA, FSA, "Coronavirus Food Assistance Program," Final Rule, 85 *Federal Register* 59380, September 22, 2020.

[49] This compares with a payment limit of $125,000 per individual under traditional farm programs from Title I of the 2018 farm bill (P.L. 115-334). See CRS Report R46248, *U.S. Farm Programs: Eligibility and Payment Limits*.

[50] Table 15 in USDA, *Coronavirus Food Assistance Program 2: Cost-Benefit Analysis*, September 15, 2020, p. 28.

[51] CRS Report R46248, *U.S. Farm Programs: Eligibility and Payment Limits*.

[52] 7 C.F.R. Part 9, §9.2(e)(2).

Under normal USDA rules governing recordkeeping requirements in regard to meeting the "actively engaged in farming" criteria, all persons who provide any management to the farming operation and seek to qualify as a farm manager—eligible for payments up to the individual payment limit—are required to maintain contemporaneous records or activity logs of their management activities.[53]

For a corporate entity,[54]

- in general, the payment limit for the entity is $250,000;
- the payment limit for the entity is $500,000 if two different individual owners or shareholders of the legal entity each contributed at least 400 hours of active personal labor or active personal management (or combination thereof) with respect to the production of commodities for which an application or applications are made; and
- the limit is $750,000 if three or more different individual owners or shareholders of the legal entity each contributed at least 400 hours of active personal labor or active personal management (or combination thereof) with respect to the production of commodities for which an application or applications are made.

Neither the CARES Act nor the underlying CCC authority requires payment limits. Payment limits were applied at USDA's discretion—similarly to when it established the Market Facilitation Program payments and the Wildfire and Hurricane Indemnity Program, which were also undertaken at the Secretary's discretion.[55] Benefits received under traditional farm support programs, such as the Acreage Risk Coverage (ARC) and Price Loss Coverage (PLC) programs, are not to be added to either CFAP-1 or CFAP-2 payments—and CFAP-1 payments are not to be added to CFAP-2 payments—when evaluating payment limits.[56] In other words, payment limits for CFAP-2 are independent of other farm program benefits received by a farm, including CFAP-1 payments.

Program Outlays: Projected Versus Actual

As of December 5, 2020, USDA had approved 759,089 applications and made $11.614 billion in outlays under CFAP-2 (**Figure 2**), with cattle and corn producers receiving the largest amounts.[57] The current CFAP-2 payment geographic distribution pattern is similar to CFAP-1's—that is, payments are concentrated in the Corn Belt, Texas, and California (**Figure 3**). Producers could submit applications for CFAP-2 payments through December 11, 2020.

USDA projects that once adjustments have been made to account for payment limits, a total of $13.2 billion in CFAP-2 funding will be allocated across the four different commodity groupings

[53] See CRS Report R46248, *U.S. Farm Programs: Eligibility and Payment Limits*.

[54] The CFAP-2 final rule (85 *Federal Register* 59380, September 22, 2020) extended the special payment limitation provisions for corporate entities to trusts and estates for both CFAP-1 and CFAP-2. It also changed the method by which payments under the special payment limitation provisions are attributed to individuals and legal entities for both CFAP-1 and CFAP-2. The change was undertaken to avoid inequities attributed to ownership shares.

[55] See CRS Report R45310, *Farm Policy: USDA's 2018 Trade Aid Package*; CRS Report R45865, *Farm Policy: USDA's 2019 Trade Aid Package*; and CRS In Focus IF11539, *Wildfires and Hurricanes Indemnity Program (WHIP)*.

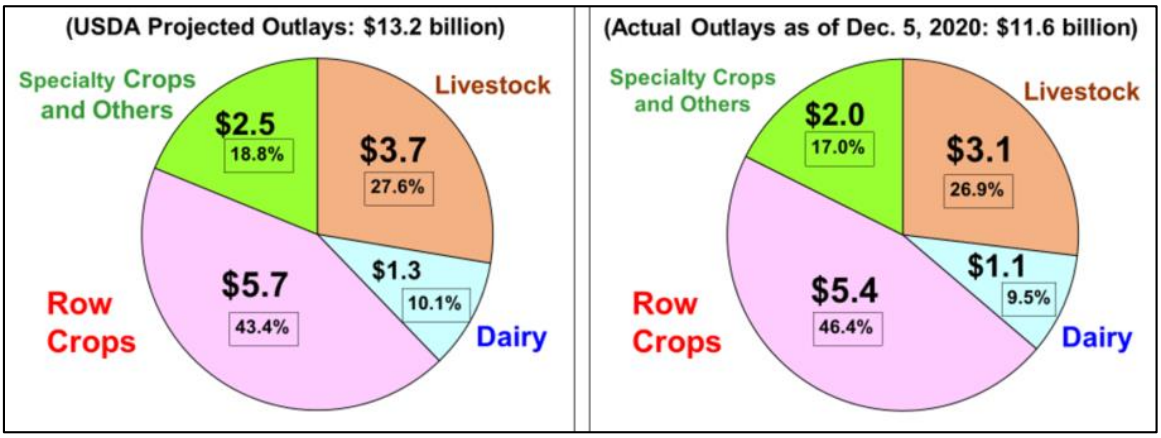
[56] USDA, CFAP-2 Final Rule, 85 *Federal Register* 59380, September 22, 2020.

[57] USDA, "Coronavirus Food Assistance Program 2 Data," as of December 5, 2020, at https://www.farmers.gov/cfap/data.

as follows: row crops ($5.7 billion, 43%); livestock ($3.7 billion or 28%); specialty crops and other ($2.5 billion, 19%); and dairy ($1.3 billion, 10%) (**Figure 2**).[58]

Figure 2. CFAP-2 Payments by Commodity Category: Projected and Actual

USDA projected (adjusted for payment limits) versus actual outlays



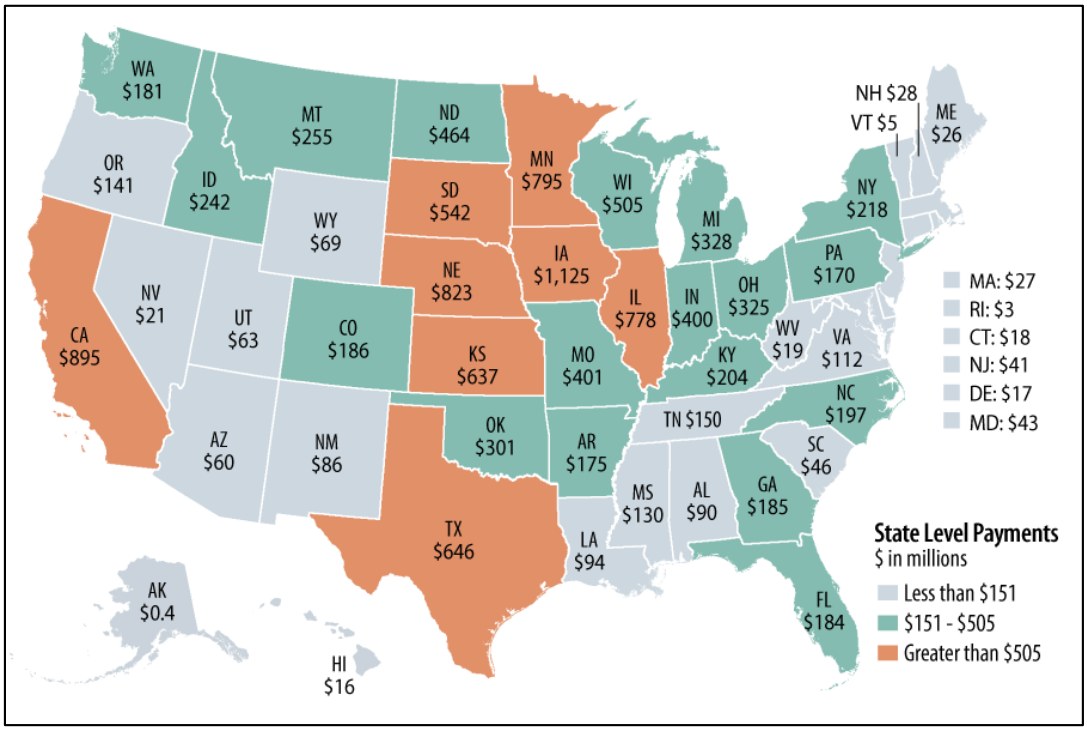
Sources: USDA projected outlays based on available funding are from Table 15 in USDA, *Coronavirus Food Assistance Program 2: Cost-Benefit Analysis*, September 15, 2020, p. 28; actual outlays as of December 5, 2020, are from USDA, "Coronavirus Food Assistance Program 2 Data," at https://www.farmers.gov/cfap/data. USDA projections include adjustments for payment limits, which may prevent some large farms from obtaining their maximum potential CFAP-2 payments.

Notes: Livestock includes beef cattle, hogs and pigs, lambs and sheep, eggs, and broilers. Row crops include barley, corn, sorghum, soybeans, sunflowers, upland cotton, and wheat. Dairy is cow's milk. Specialty crops and others include fruits, vegetables, tree nuts, horticulture and all other commodities not associated with the listed categories of livestock, row crops, and dairy. Totals may not add due to rounding.

[58] Table 15 in USDA, *Coronavirus Food Assistance Program: Cost-Benefit Analysis*, September 15, 2020, p. 28.

Figure 3. CFAP-2 Payments by State, as of December 13, 2020

state abbreviation: $ millions



Source: USDA, Coronavirus Food Assistance Program 2 data, as of December 15, 2020.
Notes: Total CFAP-2 outlays were $12.473 billion as of December 15, 2020.

Prior to adjusting for payment limits, USDA projects that corn producers would be eligible to receive the largest outlay—$3.5 billion—from among the many eligible commodities (**Table 2**), followed by cattle ($2.8 billion), dairy ($2.0 billion), hogs and pigs ($1.7 billion), and soybeans ($1.4 billion).[59]

Issues for Congress

Three policy questions about the implementation of CFAP-2 payments are as follows:

1. Have CFAP-2 payments provided at least partial compensation to all producers that have experienced unexpected economic costs due to COVID-19 during the second through fourth quarters of 2020?
2. Have CFAP-2 funds been distributed in a fair manner to every producer and for every commodity sector that has experienced COVID-19-related costs?
3. Have CFAP-2 payments overcompensated any producers for losses incurred from COVID-19-related market disruptions?[60]

In addition to these questions, some have expressed additional policy concerns related to the potential for duplication of loss coverage under existing farm programs; the limited role for

[59] See footnote 58.

[60] CFAP-2 payments are nominally supposed to correspond to a measure of losses incurred during the second to fourth quarters of 2020. USDA's various methods of estimating losses incurred under both CFAP-1 and CFAP-2 appear to have little relationship to actual losses incurred for many of the eligible commodities, as discussed earlier in the report.

congressional monitoring and oversight of the large sums of taxpayer money that are being spent under a nontraditional authority; the potential need for additional assistance in 2021; and the potential for this nontraditional authority to serve as a recurring template for future USDA payment interventions.

To address these questions, Congress could consider requesting that a study be conducted by an independent, objective institution to review the evidence and empirically address many of these questions, particularly if CFAP is to serve as a template for future large-scale emergency interventions in the agricultural sector. Several of these policy issues are discussed briefly below.

Congressional Monitoring and Oversight of CFAP-2 Outlays

Congress retains its traditional monitoring and oversight responsibilities for all USDA activities, including the CFAPs. Total combined funding allocations to the two rounds of CFAP direct payment programs are up to $30 billion—including up to $16 billion under CFAP-1 and up to $14 billion under CFAP-2. USDA has developed special websites for both rounds of CFAP spending that provide links to all official documentation, as well as weekly updates of payment data by commodity and state.[61] However, the time frame for implementation of these programs in response to the pandemic leaves little time for congressional intervention at any level, were it to be deemed necessary. Some additional topics Congress may consider exploring could include the following: whether implementation of CFAP-2 created a burden for certain types of producers in applying for program benefits; if USDA's procedures for auditing self-certified records are likely to impose a burden on certain types of producers; whether payment rates are biased against suppliers of higher-value crops (e.g., organic crops or crops targeting local markets); and whether payments based on projected dairy production after September introduced moral hazard into dairy markets.[62]

Have CFAP-2 Payments Alleviated COVID-19-Related Costs?

There is no widely agreed-upon metric for assessing the extent of costs to the U.S. agricultural sector associated with COVID-19-related low prices and market disruptions during the second to fourth quarters of 2020. As a result, it is difficult to conclusively assess the extent to which CFAP-2 payments are alleviating COVID-19-related costs—particularly while the program is ongoing. For example, which is a better method of approximating losses—basing payments on sales or on inventories? Should USDA have considered estimating losses on eligible commodities with actual sales separately from the loss calculations of commodities not yet harvested or sold? Should USDA have adjusted for commodities that depend more heavily on farm production and marketing costs that actually decreased during this period (e.g., fuel for drying and transporting grain)?

As CFAP-2 winds down and more stakeholder feedback becomes available, Congress may evaluate whether it would serve as a useful template for future disaster response programs and what changes might be necessary or useful in designing any future program. In addition, future studies may help to address the lack of information about the efficacy of the CFAP.

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[61] CFAP-2 program information is available at https://www.farmers.gov/cfap; CFAP-1 program information is available at https://www.farmers.gov/cfap1.

[62] The moral hazard would be that after receiving a payment for projected milk production during the September 1, 2020, to December 31, 2020, period, a producer might elect to produce less than was projected, thus garnering savings from avoiding the production expenses associated with that production while capturing the CFAP-2 payments on the projected production.

Will CFAP-2 Payments Duplicate Payments Under Traditional Farm Programs?

CFAP-2 payments to major program crops—such as corn, soybeans, and wheat—are to occur primarily under the row-crop, price-trigger category and are to be based on 2020 planted acres. The row-crop category is projected to be the largest recipient of CFAP-2 payments (**Figure 2**). Row crops were a major recipient of CFAP-1 payments. In addition, most of these acres also participate in either the ARC or PLC programs,[63] as well as in the federally subsidized crop insurance program.[64] If payments also were triggered under ARC and PLC during 2020, then it is likely that a large portion (perhaps a majority) of those same farm acres would receive payments under multiple programs, including the CFAPs.

Have CFAP-2 Payments Been Distributed Fairly?

After CFAP-1, several program watchers asserted that the payment program's implementation methodology failed to incentivize participation by all affected agricultural sectors and all injured producers in those sectors—in particular, small farmers, processed food commodities (e.g., raisins), and aquaculture.[65] This concern has carried over to CFAP-2, and USDA made an effort to expand CFAP-2 program inclusivity. The application period for CFAP-2 was open until December 11, 2020. As a result, the question of its efficacy in responding to COVID-19-related costs cannot yet be fully answered. However, preliminary payment data may be used to make an early assessment. Under the assumption that the COVID-19 pandemic affected all regions and commodity sectors relatively equally, then a simple approach to evaluating the CFAP-2's efficacy would be to compare the distribution of CFAP-2 payments by commodity category with each category's share of national output value (**Figure 4**).

Such a comparison would reveal that row crops—which are the primary beneficiary of traditional farm support programs—have received the largest share (46.4%) of CFAP-2 payments, a share that exceeds their share of average national output value (28.1%). In contrast, the specialty crops' and livestock sector's CFAP-2 payment shares are substantially lower than their national output value shares—25.3% national output share versus 17.0% share of CFAP-2 payments for specialty crops, and 36.3% versus 26.9% for livestock. The dairy sector's share of national output value is nearly equal to its share of CFAP-2 payments—10.3% versus 9.5%.

If USDA's projected outlays (**Figure 2**) are a good estimate of final CFAP-2 payments, then dairy's $1.3 billion (9.8%) and livestock's $3.7 billion (28.0%) payment shares would align with their national output shares. However, the row crops category's projected $5.7 billion (43.2%) would be substantially larger than its national output value share of 28.1%, and the specialty crops catetory would receive a smaller share of payments (18.9%) than its share of national output (25.3%). However, this relatively simple comparison does not evaluate the extent to which CFAP-2 payments have mitigated actual production and marketing losses sustained by each commodity sector—the stated objective of the CFAP payments. Furthermore, future analysis based on these criteria may paint a different picture of sectoral benefits.

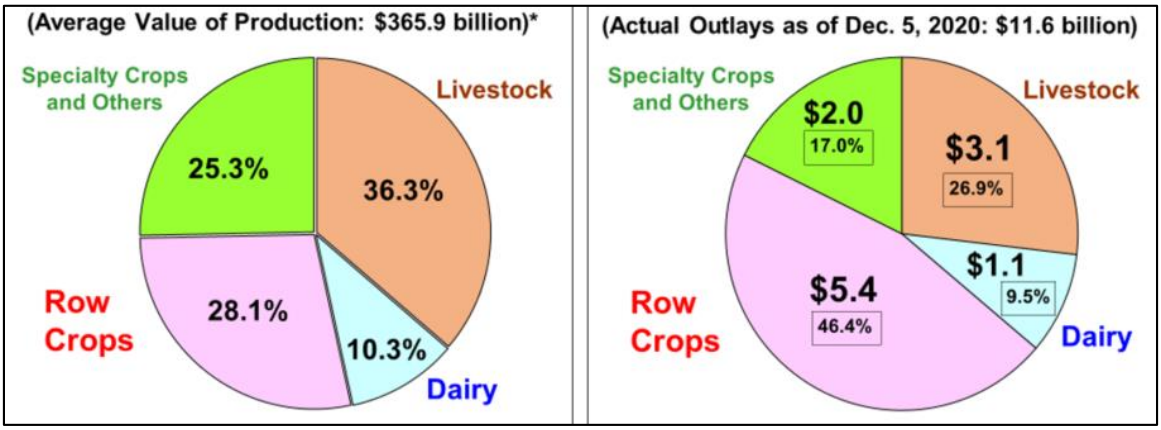
[63] For a description of losses under the ARC and PLC programs, see CRS Report R45730, *Farm Commodity Provisions in the 2018 Farm Bill (P.L. 115-334)*.

[64] The federal government subsidizes the cost of crop insurance regardless of market prices for insured crops. For a description of losses under the federal crop insurance program, see CRS Report R45193, *Federal Crop Insurance: Program Overview for the 115th Congress*.

[65] See Hooker, "Smaller Farmers Are 'Left Out,'" 2020; and Letter from House Agriculture Chairman Collin Peterson to USDA Secretary Perdue, June 9, 2020.

Figure 4. Average Output Value and CFAP-2 Payments by Commodity Category

Average farm value of output (2016-20) versus current CFAP-2 outlays as of November 15, 2020



Sources: Compiled by CRS from USDA, Economic Research Service, "U.S. and State-Level Farm Income and Wealth Statistics: Annual Cash Receipts by Commodity," September 2, 2020. CFAP-2 outlays as of December 5, 2020, are from USDA, "Coronavirus Food Assistance Program 2 Data," at https://www.farmers.gov/cfap/data.

Notes: *Average production values are for 2016 through 2020. Livestock includes beef cattle, hogs and pigs, lambs and sheep, eggs, and broilers. Row crops include barley, corn, sorghum, soybeans, sunflowers, upland cotton, and wheat. Dairy is cow's milk. Specialty crops and others include fruits, vegetables, tree nuts, horticulture, and all other commodities not associated with the listed categories of livestock, row crops, and dairy. Totals may not add due to rounding.

Will the Agricultural Sector Need Additional Assistance?

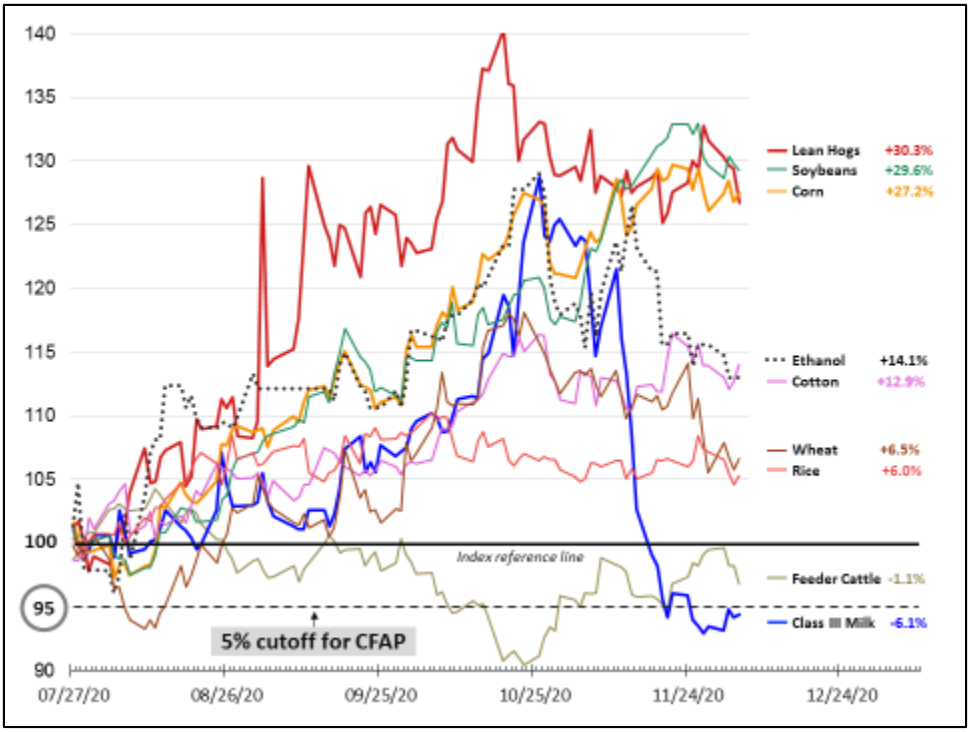
The question of whether additional assistance would be needed in response to the continuing effects of the COVID-19 pandemic will depend primarily on the duration of COVID-19 effects on market conditions. Because CFAP payments are intended to offset both sales losses due to price declines and higher marketing costs due to supply chain disruptions, a return to normalcy for these two criteria (market prices and supply chain activity) would likely signal an end to the need for federal assistance. However, these potential criteria engender several related questions. What would be a signal of a return to normalcy? Should USDA have the authority to determine what constitutes a return to normalcy, or should Congress make this determination? Is it sufficient if prices return to pre-COVID-19 levels or exceed historical averages? If producers reduce livestock inventories to adjust to current COVID-19-suppressed demand conditions, is that a return to normalcy, or is that a situation that requires compensation because demand is not what it would typically be—similar to the justification for the Market Facilitation Program payments?[66]

With respect to COVID-19-related sales losses from price declines, payments were based on a commodity having experienced at least a 5% decline in prices from pre-COVID-19 average prices based on the January 13-17 period to the mid-April period for CFAP-1 and to late July for CFAP-2 (**Figure 1**). Livestock and row crop commodities, which are price-trigger commodities, received over 73% of CFAP-2 payments through December 5, 2020 (**Figure 4**). Since late July, most of the major crop and livestock commodities (dairy and beef cattle being notable exceptions) have seen their prices increase substantially under improving market conditions, which include tighter supplies and increasing international demand (**Figure 5**).[67]

[66] See CRS Report R45310, *Farm Policy: USDA's 2018 Trade Aid Package*; and CRS Report R45865, *Farm Policy: USDA's 2019 Trade Aid Package*.

[67] USDA, *World Agricultural Supply and Demand Estimates*, November 11, 2020.

Figure 5. Commodity Price Indexes, July 27-31=100, Through December 4, 2020



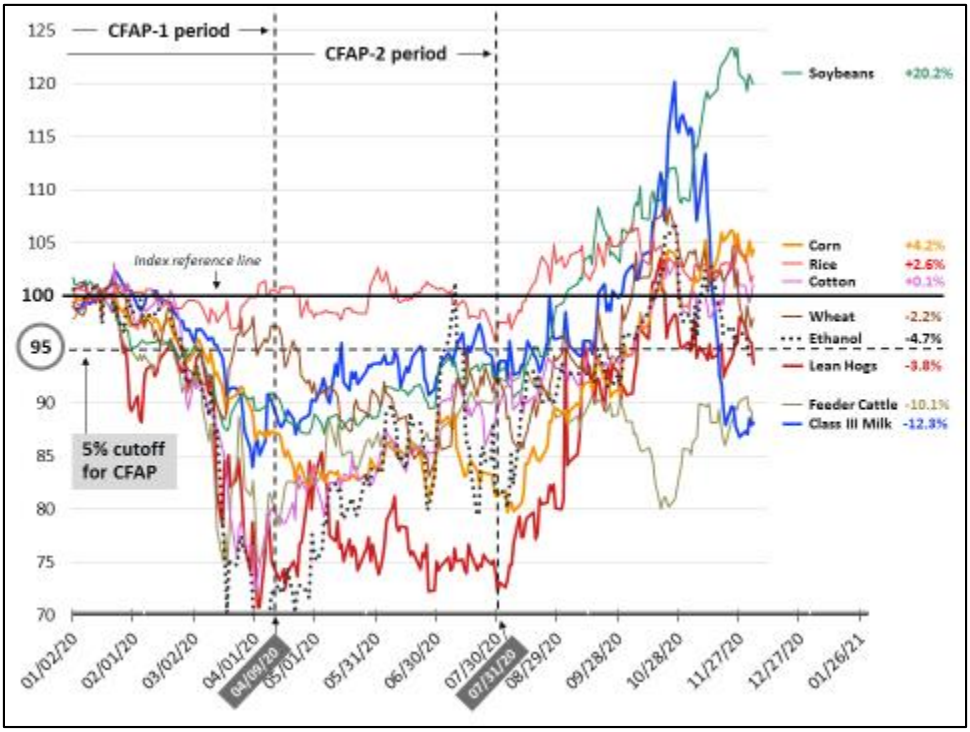
Sources: Compiled by CRS using futures contract closing prices from the Chicago Mercantile Exchange (CME)—the December 2020 contract was used for lean hogs, Class III Milk, corn, and wheat (Soft Red Wheat, Chicago), and the January 2021 contract was used for feeder cattle, rough rice, soybeans, and ethanol. The December contract from the New York Mercantile Exchange (NYMEX) was used for Upland Cotton (#2).

Notes: The price indexes are not adjusted for seasonality. The price indexes compare the closing futures contract prices relative to the average price index for July 27-31, 2020. The percentages listed in the chart next to the commodity labels are the percentage changes from the five-day average for July 27-31, 2020, to the four-day average price index for December 1-4, 2020.

When market price data are appended to the pre-COVID-19 price index chart (**Figure 6**), all major row crops and hogs have moved out of the 5%-price-decline qualifying zone; beef cattle and dairy continue to experience low market prices relative to the pre-COVID-19 period.[68] As a result, if current market conditions were to persist into the first half of 2021, it would appear that price declines would be a possible reason for a new round of CFAP payments for livestock and dairy, but not for row crops.

[68] The milk market situation appears to be more complicated than simply a loss of demand related to COVID-19. In late October, milk prices surged to 20% above their pre-COVID-19 level before plummeting to 12.3% below pre-COVID-19 prices in early December.

Figure 6. Commodity Price Indexes, January 13-17=100, Through December 4, 2020



Source: Compiled by CRS using futures contract closing prices from the CME—the December 2020 contract was used for lean hogs, Class III Milk, corn, and wheat (Soft Red Wheat, Chicago), and the January 2021 contract was used for feeder cattle, rough rice, soybeans, and ethanol. The December contract from the NYMEX was used for Upland Cotton (#2).

Notes: The price indexes are not adjusted for seasonality. The price indexes compare the closing futures contract prices relative to the average price index for January 13-17, 2020. The percentages listed in the chart next to the commodity labels are the percentage changes from the 5-day average for January 13-17, 2020, to the 4-day average price index for December 1-4, 2020.

The CFAP-2 payment rate calculation was less transparent for many specialty crops. Such specialty crop payment rates were based largely on the addition of unexpected marketing costs related to supply chain disruptions due to widespread shutdowns (with only a partial reopening) of all but essential businesses; uncertainty about the availability of labor for the food distribution network; and a large-scale reorientation of food product demand away from the bulk form targeting institutional purchasers (including restaurants, hotels, schools, and entertainment venues) and toward smaller packaging or consumer-ready items for sale at retail outlets.

Much of the transformation refocusing food product delivery to retail outlets is now happening or has occurred. Similarly, food processors have implemented slower line operating speeds and new safety standards to ensure worker safety than before the COVID-19 pandemic. These transformations have likely raised costs from the pre-COVID-19 period, but those costs are becoming more stable, thus aiding greater confidence in the supply chain. However, the COVID-19 pandemic continues unabated, and most parts of the country continue to implement partial or full shutdowns of restaurants and schools, as well as sports and entertainment venues. Whether this continuation of at least a partial shutdown of institutional buyers constitutes grounds for another round of CFAP payments remains an open question.

Appendix. Supplementary Tables

Table A-1. Price Changes from Mid-January to Late-July 2020 for Price Trigger Commodities

Commodity	Unit	Avg. Price: Jan. 13-17	Avg. Price: July 27-31	Price Decline[a]	Percent Decline
		($/unit)	($/unit)	($/unit)	(%)
Crops[b]					
Barley	bushel	$4.27	$3.60	$0.67	16%
Corn	bushel	$4.02	$3.29	$0.73	18%
Cotton, Upland	pound	$0.72	$0.62	$0.10	14%
Sorghum	bushel	$3.82	$3.12	$0.70	18%
Soybeans	bushel	$9.63	$8.91	$0.72	7%
Sunflowers	pound	$0.18	$0.16	$0.02	11%
Wheat (all classes)	bushel	$5.57	$4.89	$0.68	12%
Dairy					
Cow's milk[c]	cwt	$17.73	$15.60	$2.13	12%
Livestock					
Fed cattle[d]	head	$1,706	$1,537	$169	10%
Feeder cattle (< 600 pounds)[e]	head	$861	$791	$70	8%
Feeder cattle (>600 pounds)[f]	head	$1,174	$1,078	$96	8%
Hogs and pigs[g]	head	$148	$109	$39	26%
Lambs and sheep[h]	head	$200	$149	$51	26%
Broilers and Eggs					
Broilers[i]	pound	$0.9096	$0.6489	$0.26	29%
Shell eggs[j]	dozen	$0.46	$0.40	$0.06	13%
Liquid eggs[k]	pound	na	na	$0.06	na
Dried eggs[l]	pound	$2.15	$1.98	$0.17	8%
Frozen eggs[l]	pound	$0.53	$0.45	$0.08	15%

Source: USDA, *Coronavirus Food Assistance Program 2: Cost-Benefit Analysis*, September 15, 2020.

Notes: Average prices are rounded to two decimal places. cwt = hundredweight; lbs. = pounds.

a. The price decline is the difference between the weekly average of the futures contract prices (or weekly average of the cash prices if the futures prices are unavailable) for the weeks of January 13-17, 2020, and July 27-31, 2020.

b. Wheat prices are based on a production-weighted composite of hard red spring (HRS), hard red winter (HRW), and soft red winter (SRW) futures. For crops with futures market data, December contracts are from the Chicago Mercantile Exchange (CME) for most crops other than soybeans (November contract). HRS wheat uses the December contract quoted on the Minneapolis Grain Exchange, and upland cotton uses the December contract quoted on the Intercontinental Exchange (ICE). For nonspecialty crops without futures contracts, Risk Management Agency (RMA) conversion factors utilizing futures contracts are employed when relevant and available. The price for sorghum is calculated as 95% of the corn futures price, which is consistent with the multiplicative factor used by RMA under the Commodity Exchange Price Provisions (CEPP). The price of sunflowers is the soybean oil price divided by 2, plus 1 cent, which is

consistent with the CEPP for oil-type sunflowers. AMS data is used for other crops where futures contracts are not traded.

c. Milk prices are calculated as the average of Class III (60% weight) and Class IV (40% weight) futures prices. Although the all-milk price by construction always will be above the Class III and Class IV prices, the all-milk price generally follows the trend of the weighted average of 60% of the Class III price and 40% of the Class IV price.

d. Fed cattle are cattle that are market-ready (with a weight of 1,200 lbs. or more) and intended for slaughter. The price decline per head of fed cattle is approximated by first calculating the difference between the weekly average prices for January 13-17, 2020, and July 27-31, 2020. These values are multiplied by 14 (assuming an average weight of 1,400 lbs. or 14 cwt) to approximate the equivalent per-head values for fed cattle.

e. Feeder cattle are young cattle that are taken off pasture and brought to a feedlot for finishing weight gain to achieve market-ready status prior to slaughter. The under 600-pound category price per head is the feeder cattle November 2020 futures contract price ($/cwt) multiplied by 5.5 cwt, the typical weight of a weaned calf.

f. The feeder cattle over 600-pound category price per head is the feeder cattle November 2020 futures contract price multiplied by 7.5 cwt, the typical weight of feeder cattle when placed on feed.

g. Hogs are any swine that weigh more than 120 lbs. Pigs means any swine weighing less than 120 lbs. Lean hog December 2020 futures contract prices are converted to a per-head basis using a 215 pound-per-head conversion factor.

h. Lambs and yearlings are all sheep less than two years of age. All sheep are greater than two years of age. The AMS provided price data.

i. Broiler prices are the National Composite Weighted Average from the AMS *Broiler Market News Report*. To obtain the per-bird payment rate of **Table 3**, the price decline is converted from a per-pound basis to a per-bird basis, which uses the average live weight of young chickens from January 2020 to June 2020 (as reported in the NASS July 2020 *Poultry Slaughter* report) and a dressed percentage of 76% from the AMS *Broiler Market News Report* to give a dressed weight of 4.86 lbs. per bird.

j. The shell egg price is the National Shell Egg Index Price for large eggs from the *National Shell Egg Index Price Report*.

k. Liquid egg price data are not shown by USDA to maintain confidentiality of proprietary data.

l. Prices are from the AMS *Processed Eggs: Weekly National Egg Product* report, using the midpoints for "Whole" eggs of the "Mostly" columns.

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