

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Coronavirus Food Assistance Program
1-CFAP**

Amendment 12

Approved by: Acting Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 1 C has been amended to update the sources of authority.

Subparagraph 16 D has been amended to remove the deadline for revising an application to request an additional increase in limitation.

Subparagraph 21 C has been added to include late-file provisions.

Subparagraphs 50 C, 51 D, and 51 E have been amended to include notes referencing late-file provisions.

Subparagraphs 165 B, 188 A, and 188 B have been amended to add cattle to Part 3 payments.

Exhibit 9 has been added to include example letter to producers submitting CFAP 1 application (AD-3114) after the sign-up period has ended.

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Part 1 Basic Information**1 Overview****A Handbook Purpose**

This handbook provides the following:

- State and County Offices with policy and procedures for administering CFAP
- specific eligibility and payment calculation provisions as applicable for designated commodities.

Provisions in this handbook **must not** be revised without prior approval from the National Office. Any requests or amendments must be sent to DAFP by e-mail to the PPB Mailbox according to 1-NAP (Rev. 2), paragraph 11. In the subject line, include State abbreviation, CFAP, and date. For example: NY/CFAP/06-01-2020.

The objective of CFAP is to provide direct payments to producers who have been impacted by COVID-19 resulting in:

- actual losses for agricultural producers where prices and market supply chains have been impacted
- lost demand and short-term oversupply for the 2020 marketing year.

B Authority and Responsibility

SND has the authority and responsibility for the programs prescribed in this handbook.

C Sources of Authority

Following are the sources of authority for CFAP:

- the Coronavirus Aid, Relief, and Economic Stability Act (CARES Act, Pub. L. 116-136)
- CCC Charter Act (15 U.S.C. 714c(b), (d), and (e))
- *--the Consolidated Appropriations Act, 2021--*
- 7 CFR Part 9.

1 Overview (Continued)

D Related FSA Handbooks

Handbooks related to CFAP include:

- 9-AO for investigating program violations
- 1-APP for appeals
- 32-AS for records management
- 1-CM for signature requirements, power of attorney, deceased individuals and dissolved entities, maintaining the name and address file, assignments and producer disqualification and debarment
- 3-CM for farm, tract, and crop data
- 11-CM for maintaining customer record
- 2-CP for acreage reporting
- 6-CP for HELC and WC provisions
- 7-CP for finality rule and equitable relief
- 1-FI for processing payments initiated
- 61-FI for prompt payment and interest penalties
- 62-FI for reporting data to IRS
- 63-FI for Assignment and Joint Payment System
- 64-FI for establishing and reporting receipts and receivables on NRRS
- 2-INFO for handling requests for information (FOIA)
- 3-PL (Rev. 2) for web-based subsidiary files for 2009 and subsequent years
- 5-PL for payment eligibility, payment limitation and AGI.

16 **Payment Limitation and Payment Eligibility Requirements (Continued)****D Payment Limitation Increases Due to Authorization of Additional Program Benefits**

Corporations, LLC's, LP's, trusts, and estates qualifying for additional assistance because of rule changes may seek an increase in the legal entity's payment limitation to either \$500,000 or \$750,000 in accordance with this paragraph.

An authorized representative of the legal entity may revise the previously filed CFAP application to provide names of 2 or 3 persons who are members of the legal entity that provided 400 or more hours of active personal labor, active personal management, or a combination thereof. The authorized representative must sign the revised application and COC must review and approve or disapprove the revised application as applicable.

The deadline for applicants to request an optional increase in limitation on a revised application has not been established.--*

E Attribution of Payments [7 CFR Part 9 Subpart A §9.7(e)(3)]

CFAP payments to persons and legal entities that do not qualify for the increased payment limitation will be limited according to the rules for attribution in 7 CFR 1400.105.

CFAP payments made directly or indirectly to a person or legal entity will be combined and limited to the person or legal entity.

CFAP payments to corporations, LLC's, LP's, trusts and estates qualified for the increase payment limitation will be limited to the lesser of the increased limitation or the sum of the amount that each member, stockholder, heir, or beneficiary of the legal entity may receive, regardless of ownership share.

Example 1: ABC Corporation pay limit is increased to \$500,000 based on 2 members contributing labor or management. Member 1 (90 percent ownership share) maximum payment limitation is \$250,000. Member 2 (10 percent ownership share) maximum payment limitation is \$250,000. In this example, each eligible member may receive (directly or indirectly) is \$250,000. The sum of the payments the eligible members may receive is \$500,000 (\$250,000 + \$250,000), regardless of ownership share. Total payment to ABC Corporation would be \$500,000.

CFAP 1 payments to a legal entity wholly owned by an embedded legal entity will be limited to the lesser of the increased limitation or the sum of the amount that each eligible member, stockholder, partner, heir or beneficiary of the *first level embedded legal entity* may receive, regardless of ownership share.

16 Payment Limitation and Payment Eligibility Requirements (Continued)

--E Attribution of Payments [7 CFR Part 9 Subpart A §9.7(e)(3)] (Continued)--

Example 2: Corporation A pay limit is increased to \$500,000 based on 2 individual persons contributing labor or management. The first-level shareholder of Corporation A is wholly owned by YZ LLC. Shareholders of YZ LLC are Joe (90% ownership share) and Jon (10% ownership share). Joe and Jon are each pay limited at \$250,000. The pay limit is increased for Corporation A and YZ LLC to the sum of payments that both Joe and Jon may receive, which is \$500,000 (\$250,000 + \$250,000), regardless of ownership share.

CFAP payments to a legal entity will be tracked through 4 levels of ownership and will be reduced for members, partners or stockholders holding an ownership interest below the 4th level.

Rules for “common attribution” (such as minor children) do not apply to CFAP payments.

*--F Changes in Farming Operations to Add Spouses

Applicants seeking to add spouses to a farming operation for CFAP, resulting in an increase in the number of persons to which payment limitation applies, must be legitimate, documented, and effective for the year which the commodity was produced and CFAP--* benefits are being sought. For example, if the farming operation is requesting CFAP benefits for 2019 crop corn, the addition of a spouse must be effective for the 2019 program year and all contracts, applications, and eligibility forms must be corrected to reflect the change.

For legal entities, including general partnerships, the farming operation must provide the organizational documents to COC, and the documents must show evidence the spouse was legally added as a member, partner, or stockholder to the legal entity.

For informal joint ventures, the spouse must provide acceptable documentation to COC’s satisfaction and prove the spouse made “at-risk” contributions, commensurate with their claimed share of the farming operation. Documentation may include, but is not limited to, signed loan notes and security agreements, and proof of payment for capital, land, or equipment contributions.

For farming operations seeking to qualify for the optional increase in payment limitation, COC must consider whether the spouse contributed at least 400 hours of active personal labor or active personal management.

21 Eligible Commodities and Signup Period (Continued)

B CFAP Signup Period

Eligible producers who had an ownership share interest in 1 or more of the eligible CFAP commodities can file a CFAP application by submitting a completed AD-3114 to any USDA Service Center from **May 26, 2020, through September 11, 2020**. The recording county will be responsible for acting on the AD-3114.

AD-3114's submitted or postmarked after September 11, 2020, will be disapproved. See subparagraph 51 E.

***--C Late-Filed AD-3114**

If an AD-3114 is submitted after the September 11, 2020, CFAP application deadline, the application **must** be accompanied by a written explanation from the applicant explaining the reasons for the late filing.

Note: Applications filed by the date arranged for filing the application under an approved register are not considered late-filed.

The late-filed AD-3114 and written explanation will be presented to COC for review and action according to the following table.

IF AD-3114...	THEN COC...
is filed by October 9, 2020	<p>is delegated authority to approve or disapprove programmatic relief for the producer's application provided the AD-3114 was accompanied by the required producer written explanation for late-filing. If COC grants relief and approves the application, the FSA representative will sign and date AD-3114, for CARES, CCC, or both, as applicable, with the effective COC decision date.</p> <p>Notes: COC is under no obligation to grant relief. However, if the producer filed the written explanation for late-filing, COC must determine if relief is warranted.</p> <p>A late-filed AD-3114 not accompanied by the required producer written explanation will be considered incomplete and will not be processed or acted on by FSA.</p>
is filed with the required producer written explanation after October 9, 2020, and on or before November 6, 2020	<p>will either disapprove the late-filed AD-3114 or make a recommendation for relief to STC. If COC recommends relief, STC is delegated authority to approve or disapprove programmatic relief for the producer's application provided the AD-3114 was accompanied by the required producer written explanation for late-filing. STC will review the participant's request and COC recommendation.</p> <p>Note: COC is under no obligation to recommend relief.</p> <p>If STC:</p> <ul style="list-style-type: none"> • grants relief, the State Office will advise COC to notify the applicant of the approval <p style="padding-left: 40px;">Note: The FSA representative will sign and date AD-3114 for CARES, CCC, or both, as applicable with the effective DAFP decision date.</p> <ul style="list-style-type: none"> • denies relief, the State Office will advise COC to disapprove the application and notify the participant in writing that relief has been disapproved. The letter must include appropriate appeal rights according to 1-APP.

--*

21 Eligible Commodities and Signup Period (Continued)***--C Late-Filed AD-3114 (Continued)**

Notes: Generally, a participant's assertion of not being aware of an application deadline is not a valid reason for finding the applicant was prevented, by reasons beyond the applicant's control, from filing a timely application. Information on application deadline is available in the public domain or by contacting FSA.

If a producer submits an application after November 6, 2020, COC must disapprove the application and the producer will be notified using the letter in Exhibit 9.--*

22 CFAP Payments and Payment Rates**A CFAP Payments**

The CFAP payment is:

- available to eligible producers who had or still have an ownership interest in 1 or more of the eligible commodities
- **not** subject to sequestration
- not subject to offset.

The CFAP payment will be determined in 1, 2, and/or 3 payment parts, and a total payment will be calculated based on the combined parts. The total payment amount will be multiplied by a factor of 80 percent after applying payment limitation to determine the actual payment amount. FSA may issue a second payment if funds remain available.

Generally, the initial payment of 80 percent of the calculated total will be issued as a single payment for each producer nationwide; however, subsequent payments may be issued as more data is received from each producer. See paragraph 52 on revising AD-3114's. See subparagraph 22 C for additional CFAP payments to eligible hogs and pigs authorized under **7 CFR 9.102**.

50 Applying for CFAP (Continued)

C Signature Requirements

A complete AD-3114, including the applicant's signature **must** be received no later than *--September 11, 2020. See 1-CM for signature requirements. See subparagraph 21 B for late-filed AD-3114's.--*

D Recording Receipt of AD-3114's and Accessing CFAP Application

Offices must make every effort to process the AD-3114 in the system and then have the producer sign the application. If the CFAP system is not available, a manual AD-3114 must be completed.

Note: COC's are not to approve any AD-3114 until **after** the AD-3114 has been loaded into the CFAP system.

If a producer submits a signed manual AD-3114 to the County Office, enter the application in the system. County Office will date stamp AD-3114 upon receipt of an AD-3114 signed in Part I by the producer.

If a producer submits an application to a County Office that is not the producer's recording County Office, the receiving County Office will date stamp the signed application and send a copy by e-mail or FAX to the recording County Office.

See Exhibit 20 for instructions on completing AD-3114.

51 Reviewing and Acting on AD-3114's

A Redelelegation of Authority for AD-3114's

COC may redelegate authority to CED to approve routine AD-3114's; however, CED **cannot** further redelegate authority to a PT.

All adverse actions must go to the COC for review.

Important: Approved AD-3114's are subject to prompt pay interest; therefore, every effort must be made to complete the payment process as soon as possible for approved AD-3114's.

51 Reviewing and Acting on AD-3114's (Continued)

C Acting on AD-3114's

The recording county's COC, or CED if delegated, will act on all completed and signed AD-3114's submitted. No action by COC is applicable to Part G, Specialty Crop Information.

Important: Payments cannot be authorized until DD has approved the CED's review of the first 5 AD-3114's according to subparagraph 3 C.

D Approving AD-3114

Before approving AD-3114's, COC or CED, if delegated must ensure that:

- all program eligibility requirements are met
- the person or legal entity applying for CFAP is determined to be an according to subparagraph 15 A
- signature requirements are met according to 1-CM, signed AD-3114 in Part I
- production, sales, and/or inventories as certified and as applicable, are reasonable
- AD-3114 was received or postmarked **by** the end of the signup period.

*--**Note:** See subparagraph 21 B for late-filed AD-3114's.--*

If all program eligibility requirements are met and COC or delegate has determined that the information on AD-3114 is reasonable and accurate, COC or delegate will approve AD-3114 and thoroughly document approval in the COC minutes.

Notes: Situations may occur when contract approval is not available in the software. Contract approval is also not allowed "on paper" during these times.

Completing eligibility forms (AD-1026, CCC-902, CCC-941, etc.) are not a condition of COC, or CED, approving AD-3114. However, these forms must be filed within 60 calendar days of the producer signing AD-3114. Failure to timely provide all eligibility forms may result in no payment or a reduced payment. County Offices must immediately update the Business File and Subsidiary record when the eligibility forms are filed.

The revised AD-3114 must be used for applications initiated after June 26, 2020.

Exception: If a producer submits the original AD-3114 dated May 19, 2020, that application is acceptable.

51 Reviewing and Acting on AD-3114's (Continued)

E COC Adjusting or Disapproving AD-3114's

If it is determined that any of the information as certified on the AD-3114 is not reasonable or is questionable, evidence may be requested from the participant according to subparagraph A. If evidence provided by the participant differs from the information certified, COC's do have authority to make adjustments. See subparagraph 3 G on producer responsibilities.

The COC will disapprove AD-3114 if **any** of the following occur:

- program eligibility requirements are not met
- person or legal entity applying for CFAP is determined to not to be an eligible producer according to subparagraph 15 B
- information on AD-3114 or supporting documentation provided by the participant is not accurate or reasonable
- evidence that applicant did not have a reported ownership share interest in the eligible commodity
- signature requirements were not met according to 1-CM, signed AD-3114 in Part I

Note: If AD-3114 was completed but never signed by the producer or someone on behalf of the producer, take **no** action on AD-3114. It is not considered filed unless it is signed.

- AD-3114 was submitted or postmarked **after** September 11, 2020.

*--**Note:** See subparagraph 21 B for late-filed AD-3114's.--*

If COC disapproves AD-3114 for any reasons listed, or adjusts the AD-3114 for any reason, then the COC must take the following actions:

- adjust or disapprove AD-3114 as applicable
- notify the participant of the adjustment or disapproval
- provide participant applicable appeal rights according to 1-APP
- thoroughly document reasons for the adjustment of disapproval in COC minutes.

Part 6 Livestock

Section 1 Basic Information

165 Overview

A Purpose

CFAP provides eligible livestock producers financial assistance intended to help offset market price declines and increased marketing costs resulting from the COVID-19 pandemic. Producers of eligible livestock commodities must have suffered a 5 percent-or-greater price loss due to COVID-19 and face additional significant marketing costs for current inventories that are eligible for compensation

Price declines, specifically in cattle, hogs and pigs, and sheep are those that are determined to have occurred between mid-January 2020, and mid-April 2020.

B General Information

Livestock that realized a 5-percent-or-greater market price decline between the average for the week of January 13-17, 2020 relative to the average for the week of April 6-10, 2020, have been determined eligible for CFAP. National payment rates have been determined based on those price declines and continuing market disruptions from changes in U.S. meat consumption due to the pandemic. For eligible livestock, Part 1 payments using CARES Act funds are based on actual sales of owned inventory as of January 15, 2020, between January 15, 2020, and April 15, 2020, multiplied by a national payment rate. Part 2, payments using CCC funds are based on the highest inventory between April 16, 2020, and May 14, 2020, multiplied by a national payment rate per head reflective of that same price decline. Part 3 *--payments for hogs and pigs as authorized by §9.102, and cattle as authorized by the Consolidated Appropriations Act of 2021, are based on the highest owned inventory of of--* eligible livestock between April 16, 2020, and May 14, 2020, multiplied by a national payment rate per head. This calculation is subject to availability of funds and will be factored, if needed. FSA is not reopening the CFAP 1 application period for Part 3. Only producers who previously applied for CFAP 1 are eligible to receive this additional assistance. Eligible producers do not need to submit a new CFAP 1 application or take any action to receive the additional payment.

C Definitions [7 CFR 9.2]

All other cattle mean commercially raised or maintained bovine animals not meeting the definition of another category of cattle in this rule excluding beefalo, bison, and animals used for dairy production or intended for dairy production.

All other sheep mean sheep 2 years of age or older.

Cattle means commercially raised or maintained bovine animals, excluding beefalo, bison, and animals used for dairy production or intended for dairy production.

165 Overview (Continued)

C Definitions [7 CFR 9.2] (Continued)

Cattle raised or maintained for breeding purposes means animals commercially raised or maintained for use as either a sire or dam for the production of livestock offspring or lactation.

Commodity means an agricultural commodity produced in the United States and intended to be marketed for commercial production that has been designated as eligible for payments under CFAP.

Feeder cattle 600 pounds or more means cattle weighing more than 600 pounds but less than slaughter cattle-fed cattle as defined.

Feeder cattle less than 600 pounds means cattle weighing less than 600 pounds.

Hogs means any swine 120 pounds or more.

Lambs and yearlings mean all sheep less than 2 years old.

Pigs means any swine weighing less than 120 pounds.

Producer means a person or legal entity who shares in the risk of producing a crop or livestock and who is entitled to a share in the crop or livestock available for marketing or would have shared had the crop or livestock been produced and marketed. A contract grower who does not own the livestock, will be considered a producer if the contract allows the grower to have risk in the livestock.

--Slaughter cattle-fed cattle means cattle with a weight of 1,200 pounds or more that are intended for slaughter.--

Slaughter cattle-mature cattle means culled cattle raised or maintained for breeding purposes, but which were removed from inventory and are intended for slaughter.

Unpriced * * * means **not** subject to an agreed-upon price in the future through a forward contract, agreement, or similar binding document as of January 15, 2020.

166-175 (Reserved)

Section 3 Payments

188 Livestock CFAP Payment Computations

A Payment Rates

--CFAP payment rates are determined by the Secretary and Part 1 and Part 2 payments are paid using two separate funds (CARES Act and CCC); however, these payments will be paid in 1 amount. The Part 3 payments, as authorized by § 9.102 and the Consolidated Appropriations Act, 2021 are subject to availability of funds and will be factored, if needed.--

Payment rates for eligible livestock are listed in the following table.

Livestock	Eligible Livestock	Unit of Measure	CARES Act Part 1 Payment Rate	CCC Part 2 Payment Rate	Part 3 Payment Rate
Cattle	Feeder Cattle: Less Than 600 Pounds	Head	\$102.00	\$33.00	*--\$7.00
	Feeder Cattle: 600 Pounds or More	Head	\$139.00	\$33.00	\$25.50
	Slaughter Cattle: Fed Cattle	Head	\$214.00	\$33.00	\$63.00
	Slaughter Cattle: Mature Cattle	Head	\$92.00	\$33.00	\$14.75
	All Other Cattle	Head	\$102.00	\$33.00	\$17.25--*
Hogs & Pigs	Pigs: Less Than 120 Pounds	Head	\$28.00	\$17.00	\$17.00
	Hogs: 120 Pounds or More	Head	\$18.00	\$17.00	\$17.00
Lambs & Yearlings	Lambs and Yearlings (All Sheep Less Than 2 Years Old)	Head	\$33.00	\$7.00	
Sheep	All Other Sheep (All Sheep Greater Than 2 Years Old)	Head	\$24.00	\$7.00	

B Livestock Payment Calculation

CFAP payment for eligible livestock will be the sum of the results of the following two calculations:

Part 1 (CARES Act Funds) Payment	Part 2 (CCC Funds) Payment	Part 3 Payment For *--Cattle, Hogs & Pigs--*
<p>For each eligible producer, payment is calculated by multiplying the number of owned and unpriced livestock sold between January 15, 2020, and April 15, 2020, by the payment rate per head.</p> <p>Note: Livestock must have been owned by the producer and unpriced as of January 15, 2020. Any offspring born and sold by April 15, 2020, from that same inventory are eligible.</p>	<p>For each eligible producer, payment is calculated by multiplying the highest owned livestock inventory on a date selected by the producer between April 16, 2020, and May 14, 2020, by the payment rate per head.</p>	<p>For each eligible producer, payment is calculated by multiplying the highest owned inventory between April 16, 2020, to May 14, 2020, by the payment rate per head.</p>

188 Livestock CFAP Payment Computations (Continued)

C CFAP Livestock Application and Payment Examples

Example 1 – Cow Calf Operation

--Producer DJB Cattle Co had the following owned and unpriced livestock in inventory on--
January 15, 2020:

- 500 bred cows
- 15 herd bulls
- 50 replacement heifers.

Between January 15, 2020, and April 15, 2020, DJB certified that he sold the following livestock:

- 10 cull cows
- 7 baby calves born after January 15, 2020.

--DJB certified that the highest owned inventory on a day between April 16, 2020, and--
May 14, 2020, was the following:

- 480 cow/calf pairs
- 18 herd bulls
- 75 replacement heifers.

The AD-3114, Part E, would be completed as follows.

PART E – LIVESTOCK INFORMATION				COC USE ONLY	
19. Livestock	20. Unit of Measure	21. Jan 15, 2020 - April 15, 2020 Sales of Owned Inventory as of Jan 15, 2020 & Any Offspring From Owned Inventory	22. Inventory (Highest Between April 16, 2020 - May 14, 2020)	23. COC Adjusted Jan 15, 2020 - April 15, 2020 Sales of Owned Inventory as of Jan 15, 2020 & Any Offspring From Owned Inventory	24. COC Adjusted Inventory
Feeder Cattle: Less than 600 Pounds	Head	7	480	480 calves	
Slaughter Cattle: Mature Cattle	Head	10			
All Other Cattle	Head		573	480 cows + 18 bulls + 75 heifers = 573	

Example Letter to Producers Submitting CFAP 1 Application (AD-3114) after the Sign-up Period, as Applicable, Has Ended

The following language is provided as guidance and may be modified to fit individual situations. A letter must be sent and copy of the notification kept in the file. This letter is intended for a COC decision.

Dear **(Enter name of AD-3114 Producer)**:

This letter acknowledges receipt of the AD-3114 the Coronavirus Food Assistance Program (CFAP 1) Application. You submitted the request to enroll after the end of the sign-up period.

Regulations at 7 CFR Part 9 specifies that the signup period for CFAP 1 ended on 9/11/2020. You filed your AD-3114 CFAP 1 application on **(enter the applicable date)**.

Accordingly, the **(enter applicable county)** County Committee (COC) has determined you did not timely file your AD-3114 CFAP 1 application and it is denied.

If you believe that the facts of this decision are not correct, you may file a written appeal of this determination with the county FSA committee within 30 days of your receipt of this decision. To file an appeal of this decision, **(insert appropriate language from 1-APP for a COC decision and include all appropriate and applicable review rights according to 1-APP for a COC decision)**.

Sincerely,

County Executive Director

--*

