

COLLIN C. PETERSON, MINNESOTA,  
CHAIRMAN

DAVID SCOTT, GEORGIA  
JIM COSTA, CALIFORNIA  
MARCIA L. FUDGE, OHIO  
JAMES P. MCGOVERN, MASSACHUSETTS  
FILEMON VELA, TEXAS  
STACEY E. PLASKETT, VIRGIN ISLANDS  
ALMA S. ADAMS, NORTH CAROLINA,

VICE CHAIR  
ABIGAIL DAVIS SPANBERGER, VIRGINIA  
JAHANA HAYES, CONNECTICUT  
ANTONIO DELGADO, NEW YORK  
TJ COX, CALIFORNIA  
ANGIE CRAIG, MINNESOTA  
ANTHONY BRINDISI, NEW YORK  
JOSH HARDER, CALIFORNIA  
KIM SCHRIER, WASHINGTON  
CHELLIE PINGREE, MAINE  
CHERI BUSTOS, ILLINOIS  
SEAN PATRICK MALONEY, NEW YORK  
SALUD O. CARBAJAL, CALIFORNIA  
AL LAWSON, Jr., FLORIDA  
TOM O'HALLERAN, ARIZONA  
JIMMY PANETTA, CALIFORNIA  
ANN KIRKPATRICK, ARIZONA  
CYNTHIA AXNE, IOWA  
XOCHITL TORRES SMALL, NEW MEXICO

# U.S. House of Representatives

## Committee on Agriculture

Room 1301, Longworth House Office Building

Washington, DC 20515-6001

(202) 225-2171

K. MICHAEL CONAWAY, TEXAS,  
RANKING MINORITY MEMBER

GLENN THOMPSON, PENNSYLVANIA  
AUSTIN SCOTT, GEORGIA  
ERIC A. "RICK" CRAWFORD, ARKANSAS  
SCOTT DESJARLAIS, TENNESSEE  
VICKY HARTZLER, MISSOURI  
DOUG LAMALFA, CALIFORNIA  
RODNEY DAVIS, ILLINOIS  
TED S. YOHO, FLORIDA  
RICK W. ALLEN, GEORGIA  
MIKE BOST, ILLINOIS  
DAVID ROUZER, NORTH CAROLINA  
RALPH LEE ABRAHAM, LOUISIANA  
TRENT KELLY, MISSISSIPPI  
JAMES COMER, KENTUCKY  
ROGER W. MARSHALL, KANSAS  
DON BACON, NEBRASKA  
NEAL P. DUNN, FLORIDA  
DUSTY JOHNSON, SOUTH DAKOTA  
JAMES R. BAIRD, INDIANA  
JIM HAGEDORN, MINNESOTA

ANNE SIMMONS,  
STAFF DIRECTOR

MATTHEW S. SCHERTZ,  
MINORITY STAFF DIRECTOR

August 21, 2020

The Honorable Sonny Perdue  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue SW  
Washington DC 20250

Dear Secretary Perdue:

The U.S. Department of Agriculture (USDA) created the Coronavirus Food Assistance Program (CFAP) earlier this year, with funding and general guidance from Congress in P.L. 116-136. I appreciate the Department's work to create a new program, outside of the farm bill cycle, to respond to the agricultural market impact of the novel coronavirus outbreak on American farmers and ranchers.

I am writing to follow up on the methodology and price data used to determine whether a crop or livestock/poultry species was made eligible for payments under the Coronavirus Food Assistance Program (CFAP). When establishing CFAP, USDA set an eligibility threshold of a five percent national price decline between January 15 and April 15, 2020.

The White House declared a national emergency concerning the disease on March 13, 2020 and widespread public health interventions to mitigate the disease began shortly thereafter. Significant agricultural market disruptions began after that declaration, when many restaurants, schools, and other food service outlets shut down or dramatically reduced service. Some would argue that the full agricultural market impacts of the closure of schools, restaurants, catering, and agricultural processing facilities due to the COVID-19 public health crisis were not fully realized during the CFAP covered period, with losses for many commodities extending well into the second and third quarters of this year.

In the program Notice of Funding Availability (NOFA), USDA implied that it would determine program eligibility for the unlisted commodities using national price data for the two relevant weeks if the stakeholder could demonstrate a qualifying price decline. The program's Frequently Asked Questions (FAQ) page on the USDA website indicates that "eligible commodities must have either a) suffered a five percent-or-greater price decline or b) experienced market supply chain disruptions due to COVID-19 and face additional significant marketing costs." And, the

May 2020 update from USDA noted that program eligibility required “a 5-percent-or-greater price loss...or face additional significant marketing costs for inventories.” The same update proceeded to describe such marketing costs as “due to surplus production or to disruptions to shipping patterns and the orderly marketing of commodities,” with additional clarity about decreased demand due to farmers markets, restaurants, and school closures.

Through the NOFA, USDA solicited data from producers and other stakeholders to demonstrate qualifying losses for commodities not originally included in the CFAP program. The NOFA and corresponding FAQ materials imply program eligibility did not require national data, if an applicant was able to share documentation of market supply chain disruption due to COVID-19. In subsequent correcting amendments, it was noted that “USDA evaluated the data submitted by commenters and Agricultural Marketing Service (AMS) Market News data when available.”

Unfortunately, USDA did not consistently indicate how or why some commenter data was acceptable and others were not. Responses to commenters generally imply that AMS Market News data is the key determinant, but in the absence of that data there is minimal transparency in how data was utilized to determine program eligibility and payment rates. USDA has indicated that it “reviewed the data submitted by commenters and determined that these commodities experienced a 5 percent or more price decrease and are eligible for payment,” yet the Department does not always identify or publish the sources of that data or how, specifically, they were evaluated. And, that review does not seem to account for the “market supply chain disruptions due to COVID-19 and...additional significant marketing costs” described in the FAQ as a second program eligibility threshold.

USDA has allowed the use of sub-national data in some cases to justify a qualifying loss (e.g., apples), but not in others (e.g., turkeys, alfalfa, nursery crops, cut flowers). Additionally, USDA does little to identify which data was used to verify eligibility for commodities with no publicly available price data or how data analysis reflected the seasonality of some commodities that may not have had representative sales data from January.

Hundreds of commodities were denied CFAP eligibility for “insufficient data” and “lack of information,” though it would seem that the well documented shut-down of school meals, restaurants, and food service demand would have impacted those food crops, and the loss of export, landscape, and retail markets for the non-food crops (e.g., pima cotton) and livestock/poultry. And, producers of processed food commodities (e.g., raisins) and aquaculture seem to have been completely excluded from the program. Those losses seem to align with the second option for CFAP eligibility from the FAQ, which was further clarified in the May 2020 update.

Without consistent public clarity on what data USDA deems sufficient for use or how USDA is analyzing this data, the program is at risk of public distrust and other commodities seeking future program eligibility are placed at a disadvantage.

I understand that in most cases the analysis excluded:

- NASS annual producer price data, though NASS could have also been asked to provide interim data from their work to calculate yearly prices in the four months since CFAP was announced;
- Auction prices, which are used by growers when establishing direct market contract sales prices, while at the same time approving eligibility for some commodities based on very limited data sources;
- Individual producer price data provided as an illustrative representative example to show what was happening to producers in an industry; and,
- U.S Census Bureau monthly export price data & other export price data, though these data sets could have been used in instances where there was a delay or lack of domestic price data.

Given this and the continued market uncertainty during the ongoing national emergency, I trust USDA is working to assist producers this summer who have suffered significant market disruptions and been denied access to CFAP to date.

In the meantime, I ask that the Department share the justification for the data sets deemed adequate, those deemed inadequate, and how the analysis reflected both eligibility parameters described in the CFAP FAQ document. If further program changes are announced, I also encourage you to consider improving program transparency on this point.

We are fortunate to be in the position to assist American farmers, ranchers, consumers, and small businesses during the worst public health emergency in more than a century. I appreciate our collaboration to that end and look forward to working together to ensure implementation of equitable and transparent programs.

Sincerely,



Collin C. Peterson  
Chairman