

# Schramm, Williams & Associates, Inc.

---

512 C Street, NE • Capitol Hill, DC 20002-5809

Tel: 202/543-4455 • Fax: 202/543-4586 • E-mail: swa@swaconsult.com

September 25, 2020

To: Debbie Powell

From: Bob Schramm  
Solomon Greene

Re: Coronavirus Food Assistance Program 2

## EXECUTIVE SUMMARY

### **Overview**

U.S. raisin growers (producers) are eligible to apply for funds under the Coronavirus Food Assistance Program 2 (CFAP 2), the second USDA direct payment program for producers who continue to face market disruptions and associated costs because of COVID-19. CFAP 2 is distinct from the first Coronavirus Food Assistance Program (CFAP 1), so raisin producers that applied for CFAP 1 will need to submit a separate CFAP 2 application to their Farm Service Agency (FSA), USDA county office. This report provides payment rates, requirements, limitations and other information necessary for understanding the Sales Commodity category within CFAP 2.

The information in this report was mainly sourced from the Farm Service Agency CFAP 2 Handbook.<sup>1</sup>

### **Who Qualifies?**

A person or legal entity that produced raisins and is in the business of farming at the time of application.

Person or legal entity must be a citizen of the U.S., resident alien, partnership of citizens, corporation, LLC, estate, trust or other structure organized under state law.

### **Basis for Payment**

Payments are based on a producer's raisin actual sales during the 2019 calendar year whether the sold crop was a 2018 or 2019 crop.

### **Sales Certification**

Raisin producers must self-certify their 2019 sales for raisins, and this reported amount is subject to spot check. Producers must maintain documentation for three years to support all certifications of sales. Any portion of sales derived from adding value to the raisins, such as processing and packaging, and from sales of products purchased for resale must not be included in the amount of sales.

### **Payment Rate**

Payment calculations for raisins will use a sales-based approach based on 5 payment gradations associated with the producer's 2019 sales of the commodity multiplied by the payment rate for that range. Examples are included in the Payment Calculation section.

The sales range and payment factor in the following table will be used to calculate payments.

---

<sup>1</sup> Farm Service Agency. (September 17, 2020). FSA Handbook: Coronavirus Food Assistance Program 2. Retrieved from [https://www.fsa.usda.gov/Internet/FSA\\_File/3cfap-a1.pdf](https://www.fsa.usda.gov/Internet/FSA_File/3cfap-a1.pdf)

<b>Payment Gradations for Sales Commodities</b>	
<b>2019 Sales Range</b>	<b>Payment Factor</b>
Up to \$49,999	10.6%
\$50,000-\$99,999	9.9%
\$100,000-\$499,999	9.7%
\$500,000-\$999,999	9.0%
All sales over \$1 million	8.8%

**Applying/Deadline**

CFAP 2 applications were made available on September 21, 2020 and are **due by December 11, 2020**. Submit form AD 3117 (attached) to your local county USDA-FSA Service Center. In addition to a local county FSA Service Centers, producers may receive application assistance from the USDA call center at 877-508-8364.

CFAP 2 is distinct from the CFAP 1, so raisin producers that applied for CFAP 1 will need to submit a separate CFAP 2 application to their local FSA Service Center.

**Certification(s) Required**

Certification of Highly Erodible Land Conservation and Wetland Conservation Provision—all through FSA offices.

**Overall Payment Limitations**

\$250,000 – for an authorized representative of legal entity (qualifications apply).

Up to \$750,000 – for a legal entity depending on the number of individuals on the application that provide attestation at least 400 hours of active personal labor or management of the organization, or combination thereof (qualifications apply).

**Adjusted Gross Income (AGI) Requirements**

To be eligible, the applicant must have three-year average AGI not exceeding \$900,000, **unless** 75% of AGI is derived from farming.

**For full CFAP 2 program and application details, please read the attached document.**

**Table of Contents**

Executive Summary.....1  
Table of Contents .....3  
CFAP 2 Report.....4  
Purpose of CFAP 2 .....4  
Program Administration .....4  
Eligible Sales Commodities .....4  
Producer Responsibilities .....4  
Eligible Producer .....4  
Ineligible Producer .....5  
Absent Producer.....5  
Assignments.....5  
Bankruptcy.....5  
Payment Limitations .....5  
Optional Increase in Limitations for Corporations, LLC’s, LP’s, Trusts, or Estates .....5  
Payment Limitation and Eligibility Examples .....6  
Adjusted Gross Income (AGI) Requirements .....8  
Highly Erodible Land Conservation (HELIC) and Wetland Conservation Provisions (WC) .....8  
Production, Sales, Inventory, and/or Acreage Reporting for CFAP 2 Eligible Commodities.....9  
Source of Sales Evidence.....9  
2019 Sales Example.....10  
New Producers.....10  
Review of Self-Certified Information .....10  
Sample Sales Commodity CFAP 2 Application (AD-3117) Section.....10  
AMS Adjustments.....11  
CFAP Signup Period .....11  
CFAP 2 Payments – Sales Commodities .....11  
CFAP 2 Sales Commodity Payment Rates .....11  
Payment Calculation .....11  
Prompt Payment.....13  
Application Submission.....13  
eAuthentication.....13  
Impact of Providing Erroneous Information and Misrepresentation.....13  
Perjury.....14  
Joint and Several Liability.....14  
ATTACHMENT 1: Coronavirus Food Assistance Program 2 Application Instructions .....15  
ATTACHMENT 2: Sample AD-3117 .....18

## CFAP 2 REPORT

### **Purpose of CFAP 2**

The purpose of CFAP 2 is to provide producers of eligible 2020 sales commodities with financial assistance to provide the ability to absorb increased marketing costs associated with the COVID-19 outbreak.

These additional significant marketing costs are associated with:

- declines in demand
- surplus production
- disruptions to shipping patterns
- the orderly marketing of commodities.

### **Program Administration**

The CFAP 2 is administered under the general supervision and direction of the Administrator, Farm Service Agency (FSA) with the assistance of the Agricultural Marketing Service (AMS).

### **Eligible Sales Commodities**

Raisins are among the specialty crops eligible for payments under the Sales Commodities category. A complete list of eligible sales commodities can be found at: <https://www.farmers.gov/cfap/specialty>

A complete list of AMS specialty crops can be found at:

<https://www.ams.usda.gov/sites/default/files/media/USDASpecialtyCropDefinition.pdf>.

### **Producer Responsibilities**

The producer is responsible for being aware of program provisions and accurately reporting all required information as applicable on AD-3117.

Producers who are approved for participation in CFAP 2 are required to retain documentation in support of their application for 3 years after the date of approval.

### **Eligible Producer**

A producer is a person or legal entity who shares in the risk of producing a commodity. The term does not include contract growers. Producers who are not in the business of farming at the time of application are not considered a producer.

To be eligible for a CFAP 2 payment, a person or legal entity must be 1 of following:

- citizen of the United States
- resident alien (possessing a Resident Alien Card (I-551))
- partnership of citizens of the United States
- corporation, LLC, or other organizational structure organized under State law
- Indian Tribe or Tribal organization, as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)
- foreign person or foreign entity who meets Foreign Person Rules as described in 5-PL.

### **Ineligible producer**

The following persons or legal entities are **ineligible** for CFAP 2 payments:

- Federal, State, and local governments, including public schools as defined in 5-PL
- persons or legal entities who did not have a reported ownership interest in any of the eligible commodities, including contract growers
- persons and legal entities that have been suspended or debarred or otherwise excluded from participating in Federal programs (1-CM, paragraph 823)
- persons and legal entities that do not meet payment limitation, payment eligibility, AGI and HELC/WC requirements for CFAP 2.

### **Absent Producer**

Individuals or entities requesting payment earned by a raisin producer who has died, disappeared, or been declared incompetent subsequent to applying for CFAP 2 benefits must complete form FSA-325. Payment shall be issued to the individuals or entities requesting payment using the deceased, incompetent, or disappeared producer's ID number.

**Note:** If AD-3117 was filed by the producer prior to death, disappearance or incompetency declaration, a revised AD-3117 is not required when payments are issued under the deceased, incompetent, or disappeared producer's ID number.

### **Assignments**

A producer entitled to an CFAP 2 payment may assign the payment.

### **Bankruptcy**

Bankruptcy status does **not** exclude a raisin producer from requesting CFAP 2 benefits. State FSA offices will contact the OGC Regional Attorney for guidance on issuing CFAP 2 payments on all bankruptcy cases.

### **Payment Limitations**

The total amount of CFAP 2 payments that a person or legal entity (excluding general partnerships and joint ventures) may receive is \$250,000, with exceptions.

Payments to a program applicant that is a joint operation, including a general partnership or joint venture, cannot exceed \$250,000 per person or legal entity that comprise first level ownership of the general partnership or joint venture, unless the first level member is another joint operation.

### **Optional Increase in Limitations for Corporations, LLC's, LP's, Trusts, or Estates**

For CFAP 2 applicants that are a corporation, LLC, LP, trust or estate, an authorized representative of the legal entity may seek an increase in the \$250,000 payment limitation based on the member's, stockholder's, partner's, beneficiary's or heir's contribution of active personal labor or active personal management, or a combination thereof.

A contribution of at least 400 hours of active personal labor, active personal management, or a combination thereof must be provided by an individual person who is a member, stockholder, partner, beneficiary, or heir from any level of ownership in the organizational structure to qualify the legal entity for the optional increase in payment limitation.

**Note:** The sole-member of an embedded LLC or grantor of a revocable trust using an SSN may qualify the corporation, LLC, or LP for the optional increase in payment limitation

The maximum limitation a corporation, LLC, LP, trust, or estate may receive is \$750,000.

The authorized representative of the legal entity must certify on AD-3117, Part H the name(s) of the entity members providing at least 400 hours of active personal labor, active personal management, or a combination thereof.

**Notes:** For embedded members who are a sole-member LLC or grantor of a revocable trust using an SSN, record the individual person’s name contributing at least 400 hours of active personal labor, active personal management, or a combination thereof.

Certain spousal provisions do not apply.

The following table provides qualifying requirement for the optional increase in payment limitation.

<b>IF...</b>	<b>THEN the corporation’s, LLC’s, LP’s, estate’s, and trust’s payment limitation is...</b>
none of the members, stockholders, partners, beneficiaries, or heirs provide labor, management, or combination thereof	\$250,000.
1 person holding an ownership interest as a member, partner, stockholder, beneficiary, or heir in the organizational structure provides at least 400 hours of active personal labor or active personal management or combination thereof	\$250,000.
2 persons holding an ownership interest as a member, partner, stockholder, beneficiary, or heir in the organizational structure provides at least 400 hours of active personal labor or active personal management or combination thereof	\$500,000.
3 persons holding an ownership interest as a member, partner, stockholder, beneficiary, or heir in the organizational structure provides at least 400 hours of active personal labor or active personal management or combination thereof	\$750,000.

**Payment Limitation and Eligibility Examples**

The following examples illustrate qualifying requirements for corporations, LLC’s LP’s, estates and trusts necessary to recognize the increased payment limitation to either \$500,000 or \$750,000.

**Example 1:** Payment limitation for a single member corporation.

Entity/Members	Share	Current Pay Limit	Labor/Management Contribution	Payment Limitation Increased	Effective Payment Limitation
ABC Corporation		\$250,000		-0-	\$250,000
Individual A	100%		0 - <400 hours		\$250,000

**Example 2:** Payment limitation for a 2-member corporation (only 1 member provides 400+ hours of labor/management).

Entity/Members	Share	Current Pay Limit	Labor/Management Contribution	Payment Limitation Increased	Effective Payment Limitation
ABC Corporation		\$250,000		\$0	\$250,000
Individual A	50%		+400 hours		\$250,000
Individual B	50%		(0)		\$250,000

**Example 3:** Payment limitation for a 3-member corporation (only 2 members provide 400+ hours of labor/management).

Entity/Members	Share	Current Pay Limit	Labor/Management Contribution	Payment Limitation Increased	Effective Payment Limitation
ABC Corporation		\$250,000		+\$250,000	\$500,000
Individual A	33.33%		+400 hours		\$250,000
Individual B	33.34%		+400 hours		\$250,000
Individual C	33.33%		0 hours		\$250,000

**Example 4:** Payment limitation for a 2-member corporation with embedded entities as members.

Entity/Members	Share	Current Pay Limit	Labor/Management Contribution	Payment Limitation Increased	Effective Payment Limitation
AB Corporation		\$250,000		\$500,000	\$750,000
<b>Corporation A – 50%</b>					\$250,000
Corporation X Joe 50% John 50%	50%		+400 hours +400 hours		\$250,000 \$250,000
Corporation Y Bob 50% Larry 50%	50%		-0- -0-		\$250,000 \$250,000 \$250,000

<b>Corporation B – 50%</b>	50%				\$250,000
Sam	50%		+400 hours		\$250,000
Pete	50%		-0-		\$250,000

**Example 5:** Payment limitation for an estate with 3 heirs each contributing 400+ hours labor or management.

<b>Entity/Members</b>	<b>Share</b>	<b>Current Pay Limit</b>	<b>Labor/Management Contribution</b>	<b>Payment Limitation Increased</b>	<b>Effective Payment Limitation</b>
AB Estate		\$250,000		\$500,000	\$750,000
Heir No. 1	33.33%		+400 hours		\$250,000
Heir No. 2	33.33%		+400 hours		\$250,000
Heir No. 3	33.34%		+400 hours		\$250,000

**Adjusted Gross Income (AGI) Requirements**

To be eligible for payment, a person or legal entity (including members, stockholders or partners of the legal entity) must have an average AGI that does not exceed the \$900,000 limitation, unless, at least 75 percent of the person’s or legal entity’s average AGI is derived from farming, ranching or forestry operations.

The 3 base years used to compute the average AGI and Farm AGI are 2016, 2017, and 2018.

Applicants exceeding the \$900,000 limitation may complete form CCC-942 and obtain a certification from a licensed CPA or attorney verifying that 75 percent of the AGI is derived from farming, ranching or forestry operations.

**Highly Erodible Land Conservation (HELC) and Wetland Conservation Provisions (WC)**

Certification of conservation compliance (HELC/WC compliance), AD-1026, and provisions of 6-CP (Highly Erodible Land Conservation and Wetland Conservation Provisions) statutorily apply to CFAP 2. The producer applying for CFAP 2 agrees to conservation compliance provisions.

CFAP 2 applicants that have AD-1026 continuous certification with box 5B, agreeing to AD-3117, Part A, item 8A, do not have to file new AD-1026. CFAP 2 applicants filing AD-1026 for the first time can certify AD-1026 with box 5B if they meet those provisions. These producers do not have to establish farm records for which their certification of compliance applies. A producer’s certification of box 5B for CFAP 2 is a certification that the producer:

- does not participate in any USDA benefits subject to HELC and WC compliance except Federal Crop Insurance or CFAP 2
- only has interest in land devoted to agriculture that is exclusively used for perennial crops (excluding sugar cane), such as tree fruits, tree nuts, grapes, olives, native pasture, and perennial Forage



**Note:** If the applicant produces alfalfa, the applicant must contact NRCS to determine whether such production qualifies as the production of a perennial crop.

- has not converted a wetland after **December 23, 1985**.

**Note:** The December 23, 1985, AD-3117 wetland conversion certification date is used as low risk assessment of conservation compliance violation to forego farm records establishment for producers that have perennial crops only. A wetland converted December 24, 1985, through November 28, 1990 (determination of CW) is not a conservation compliance violation (those acreages may incur a wetland planting violation but not a conversion violation).

### **Production, Sales, Inventory, and/or Acreage Reporting for CFAP 2 Eligible Commodities**

Raisin producers must certify their 2019 sales. Eligible sales include only sales of raisins grown by the producer. Any portion of sales derived from adding value to the raisins, such as processing and packaging, and from sales of products purchased for resale must not be included in the amount of sales.

The requirement to provide production, sales, inventory, and/or acreage certification on AD-3117 is based on each producer's nationwide ownership interest in the commodity, regardless of where the commodity was grown or is stored.

**Note:** Ownership interest does not mean interest as a landowner. In this context, ownership interest means as owners of the commodity with both control of and title to the commodity.

Producers must maintain documentation for three years to support all certifications of production, sales, inventory, and/or acreage.

### **Source of Sales Evidence**

- Sales receipts
- Other sales documents indicating when a commodity was forward priced
- Ledgers of income
- Income statements of deposit slips
- Register tapes
- Invoices for custom harvesting
- Records to verify production costs
- Contemporaneous measurements
- Truck scale tickets
- Contemporaneous diaries – determined acceptable by County Committees (COC)
- Other records determined acceptable by COC

**Note:** If the applicant was a new producer after December 31, 2019, provide 2020 documentation.

**2019 Sales Example**

A farmer received the following payments:

<b>Payment Receipt</b>	<b>Crop Year</b>
October 2018	2018
March 2019	2018
July 2019	2018
October 2019	2019
March 2020	2019
July 2020	2019

The sales qualifying for CFAP 2 payments are: March 2019, July 2019 and October 2019. These three payments were received in 2019 as specified by the CFAP 2 Final Rule.

**New Producers**

Producers who began farming raisins in 2020 and had no 2019 sales will self-certify their actual 2020 sales, at the time of application, in lieu of 2019 sales. The producer’s actual 2020 sales must be determined reasonable by County Committees.

Eligible sales include only sales of raw commodities grown by the producer. Any portion of sales derived from adding value to the commodity, such as processing and packaging, and from sales of products purchased for resale must not be included in the amount of sales.

**Note:** Documentation may be required to support sales.

**Review of Self-Certified Information**

Production, sales, inventories, and/or acreage, as applicable, will be a self-certification by the raisin producer and is subject to spot check. Additional documentation may be requested from producer to support their CFAP 2 application. If you fail to submit additional documentation in response to a request to substantiate production, sales, and/or inventories, applicable adjustments will be made on the application for the payment and/or disapproval of the application, as applicable.

**Sample Sales Commodity CFAP 2 Application (AD-3117) Section**

Following is an example of AD-3117, Part F, Sales Commodities Information. The raisin producer will insert raisin sales in the “CROPS” line.

<b>PART F – SALES COMMODITIES</b>		<b>COC USE ONLY</b>
18. Commodity	19. 2019 Total Commodity Sales	20. COC Adjusted 2019 Total Commodity Sales
<b>AQUACULTURE</b>	■	■
<b>CROPS</b>	■	■
<b>NURSERY/FLORICULTURE CROPS</b>	■	■
<b>MISCELLANEOUS</b>	■	■
<b>OTHER LIVESTOCK (Excluding Breeding Stock)</b>	■	■
<b>TOBACCO</b>		

**AMS Adjustments**

The Farm Service Agency depends on the Agricultural Marketing Service, USDA for interpreting CFAP 2 rules that apply to raisins. AMS may adjust the “Total 2019 Sales”:

- if the 2019 total commodity sales are determined to be unreasonable or inaccurate
- to reflect the actual 2019 total commodity sales based on documentation, when deemed necessary
- to reflect the actual 2020 total commodity sales for new producers based on documentation, when deemed necessary.

**CFAP 2 Signup Period**

Eligible producers can file a CFAP 2 application by submitting a completed AD-3117 to any USDA Service Center from **September 21, 2020, through December 11, 2020**. The recording county will be responsible for acting on AD-3117.

AD-3117’s submitted or postmarked after **December 11, 2020**, will be disapproved.

**CFAP 2 Payments – Sales Commodities**

Generally, the payment 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.

Payment calculations for raisins will use a sales-based approach based on 5 payment gradations associated with the producer’s actual 2019 sales of raisins (revenue received) – whether it is for the 2018 or 2019 crops - multiplied by the payment rate for that range.

**CFAP 2 Sales Commodity Payment Rates**

Producers are paid based on five payment gradations associated with their 2019 sales.

The sales range and payment factor in the following table will be used to calculate payments.

<b>Payment Gradations for Sales Commodities</b>	
<b>2019 Sales Range</b>	<b>Payment Factor</b>
Up to \$49,999	10.6%
\$50,000-\$99,999	9.9%
\$100,000-\$499,999	9.7%
\$500,000-\$999,999	9.0%
All sales over \$1 million	8.8%

**Payment Calculation**

Payments for sales commodities will be equal to the sum of the result of the amount of the producer’s eligible 2019 sales (AD-3117, item 19) within each specified range multiplied by the payment rate for that range from the payment gradation table. Total payment to an individual shall not exceed \$250,000.

The gradient calculation applies across the board and the next page displays just a few examples of the many possible applications.

Payment Calculation Examples:

Farmer	2019 Sales	Portion of Total Payment Falling Into Each Sales Range					Total Gross Payment	Total Net Payment
		<\$50,000 in Sales (10.6%)	\$50,000 to \$99,999 In Sales (9.9%)	100,000 to \$499,999 in Sales (9.7%)	\$500,000 to \$999,999 In Sales (9.0%)	> \$1 mil in Sales (8.8%)		
	A	B	C	D	E	F	G	H
Farmer 1	\$8,265	\$876					\$876	\$876
Farmer 2	\$66,187	\$5,300	\$1,603				\$6,903	\$6,903
Farmer 3	\$220,737	\$5,300	\$4,950	\$16,712			\$21,962	\$21,962
Farmer 4	\$686,650	\$5,300	\$4,950	\$38,800	\$16,798		\$65,848	\$65,848
Farmer 5	\$3,978,421	\$5,300	\$4,950	\$38,800	\$45,000	\$262,101	\$356,151	\$250,000

All calculations follow the methodology included in this Payment Calculation section. Following is an explanation for Farmer 2 and Farmer 5.

***Farmer 2:***

Farmer 1 has 2019 sales of \$66,187 (column A), so two payment factors apply:

- 10.6 percent (applied to the first \$49,999 in sales) and
- 9.9 percent (applied to \$66,187 minus \$50,000, or \$16,187 in sales).

This farmer's total payment is \$6,903 and is calculated as:

- the sum of the first gradation (10.6 percent times \$49,999, or \$5,300) and
- the second gradation (9.9 percent times \$16,187, or \$1,603)
- $\$5,300 + \$1,603 = \$6,903$ .

***Farmer 5:***

Farmer 2 has 2019 sales of \$3,978,421 (column A), so five payment factors apply:

- 10.6 percent (applied to the first \$49,999 in sales),
- 9.9 percent (applied to the next \$50,000 in sales),
- 9.7 percent (applied to the next \$400,000 in sales),
- 9.0 percent (applied to the next \$500,000 in sales),
- 8.8 percent (applied to the remaining \$2,978,422 in sales),

This farmer's total payment is \$250,000 and is calculated as:

- the sum of the first gradation (10.6 percent times \$49,999, or \$5,300) with
- the second gradation (9.9 percent times \$50,000, or \$4,950),
- the third gradation (9.7 percent times \$400,000, or \$38,800),
- the fourth gradation (9.0 percent times \$500,000, or \$45,000),
- and the fifth gradation (8.8 percent times \$2,978,422, or \$262,101).
- $\$5,300 + \$4,950 + 38,800 + \$45,000 + \$262,101 = \$356,151$ , but payment cannot exceed \$250,000 so the total net payment to Farmer 2 is \$250,000.

### **Prompt Payment**

If the payment is not issued within 30 calendar days after all documents have been submitted, then prompt payment interest is payable to the producer (with exceptions).

### **Application Submission**

Raisin producers will submit one application for their entire operation nationwide. The application may include any or all commodities currently eligible and may be revised to add:

- existing commodities, and
- commodities determined eligible in the future.

A producer may submit an application using any of the following methods:

- in person, when available
- by mail
- electronically by:
  - FAX
  - e-mail with a scanned or photocopy of signed AD-3117 attached
  - other authorized method (provided by supplemental notice or other guidance) online at [www.farmers.gov](http://www.farmers.gov).
  - online.

**Note:** Submitting AD-3117 online requires an active Level 2 eAuthentication account. Individual producers can register for a Level 2 eAuthentication account at [www.eauth.usda.gov](http://www.eauth.usda.gov). A fillable format of AD-3117 will also be available for applicants to sign and submit by 1 of the methods in this subparagraph.

### **eAuthentication**

Producers with an eAuthentication account can apply for CFAP 2 via the FSA CFAP 2 Application Portal at <https://apps.fsa.usda.gov/cfap2/index.jsp>. Applications will be completed, electronically signed, and submitted directly to your local Service Center through this online system.

### **Impact of Providing Erroneous Information and Misrepresentation**

In the event that any application for a CFAP 2 payment resulted from erroneous information reported by the producer, the payment will be recalculated, and the producer must refund any excess payment to USDA. If the error was the producer's error, the refund must include interest to be calculated from the date of the disbursement to the producer.

If USDA determines that the producer's application misrepresented either the total amount or producer's share of the crop, head of livestock, or production, or if the CFAP 2 payment would exceed the payment as calculated based on the correct amount of production and share, the application will be disapproved and the participant must refund to USDA all CFAP 2 payments made to the producer with interest from the date of disbursement.

If any corrections to the ownership interest in the crop are made and would result in a lower CFAP 2 payment, the producer must refund the difference with interest from date of disbursement.

Any required refunds must be resolved according to debt settlement regulations in 7 CFR Part 3.

### **Perjury**

In either applying for or participating in CFAP 2, or both, the producer is subject to laws against perjury and any penalties and prosecution resulting therefrom, with these laws including but not limited to 18 U.S.C. 1621. If the producer willfully makes and represents as true any verbal or written declaration, certification, statement, or verification that the producer knows or believes not to be true, in the course of either applying for or participating in CFAP 2, or both, then the producer is guilty of perjury and, except as otherwise provided by law, may be fined, imprisoned for not more than 5 years, or both, regardless of whether the producer makes such verbal or written declaration, certification, statement, or verification within or without the United States.

### **Joint and Several Liability**

All persons and legal entities with a financial interest in an operation or in an application for payment determined to have been paid incorrectly are jointly and severally liable for any refund, including related charges, that is determined to be due CCC for any reason.

## ATTACHMENT 1

### Coronavirus Food Assistance Program 2 (CFAP 2) Application Instructions - Completing AD-3117

The following table provides instructions for completing a manual AD-3117.

Item	Instructions
<b>For COC Use Only</b>	
1	Enter the producer's recording State.
2	The program year will be 2020.
3	Enter the producer's recording county.
4	Enter application number.  <b>Note:</b> This number is assigned by the automated system.
<b>Part A – Producer Agreement</b>	
For Informational Purposes	
<p>Applicants who are an individual person must complete automated CCC-902 or manual CCC-902, Parts A and B, and provide name, address, taxpayer identification number, and citizenship status. An individual who is not a U.S. resident or lawful alien must also report contributions of labor, capital and land contributions to the farming operation.</p> <p>Applicants who are a legal entity, including General Partnership or Joint Venture, must complete automated CCC-902 or manual CCC-901 and provide the name, address and taxpayer identification number for the legal entity and all members, partners or stockholders with an ownership interest. If any member, partner or stockholder is not a U.S. resident or lawful alien, CCC-902 must be completed to report contributions of labor to the legal entity.</p> <p>All applicants must submit CCC-941. Applicants with an average AGI of more than \$900,000 for the 2016, 2017, and 2018 tax years may submit CCC-942 to certify that at least 75 percent of the applicant's AGI is derived from farming, ranching, or forestry-related activities. Applicants who exceed the AGI limitation and do not submit CCC-942 will not be eligible for payment.</p>	
<b>Part B – Producer Information</b>	
5	Enter the producer's name, address, including the ZIP code, and telephone number, including area code.
<b>Part C – Dairy Production</b>	
<b>Part D – Egg/Broiler Production</b>	
<b>Part E – Livestock Inventory (Excluding Breeding Stock)</b>	
<b>Part F – Sales Commodities</b>	

Item	Instructions
18	<p>Displays the eligible sales commodities.</p> <p>The eligible sales commodities are:</p> <ul style="list-style-type: none"> <li>• Aquaculture</li> <li>• Crops (excluding Part G crops)</li> <li>• Nursery/Floriculture Crops</li> <li>• Miscellaneous</li> <li>• Other Livestock (Excluding Breeding Stock)</li> </ul> <p><b>Note:</b> Other livestock means any of the following livestock: animals 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 turkeys.</p> <ul style="list-style-type: none"> <li>• Tobacco.</li> </ul>
19	<p>Enter the total dollar value of 2019 sales for the commodity(s) in item 18.</p> <p><b>Note:</b> If farming began after December 31, 2019, then the producer must provide 2020 sales.</p>
20	<p>COC will enter the adjusted dollar value of 2019 total commodity(s) sales, if applicable.</p> <p><b>Note:</b> An entry is only required when COC determines the dollar value of 2019 total commodity(s) sales is different than what is certified to by the producer in item 19.</p>
<b>Part G – Acreage-Based Crops</b>	
<b>Part H – Increased Payment Limitation for Corporations, Limited Liability Companies, Limited Partnerships, Trusts and Estates</b>	
27 A-C	<p>Enter the member, partner stockholder, beneficiary, or heir name(s) who provide 400 hours or more of active personal labor or active personal management, or combination thereof, to the farming operation identified in Part A, item 5.</p> <p><b>Note:</b> Entry only required to be completed by Corporations, LLC’s, LP’s Trusts, or Estates.</p>
<b>Part I – Producer Certification</b>	
28A	<p>Producer applying for CFAP 2 benefits must sign.</p>
28B	<p>Enter title and/or relationship to the individual when signing in a representative capacity.</p> <p><b>Note:</b> If the producer signing is not signing representative capacity, this field should be left blank.</p>
28C	<p>Enter the date AD-3117 is signed in item 28A.</p>
<b>Part J – COC Determination</b>	
29	<p>Displays the payment parts – CARES (Tobacco Only) and CCC.</p>



Item	Instructions
30	<p>COC or their representative will sign.</p> <p><b>Note:</b> COC must complete for both payment parts, if applicable in item 29.</p>
31	<p>Enter the date COC or their representative signs AD-3117.</p>
32	<p>COC or their representative will check (✓) either “Approved” or “Disapproved” for both payment parts in item 29.</p> <p><b>Important:</b> AD-3117 will be approved or disapproved as certified by the producer after applicable COC adjustment fields are completed.</p>

## ATTACHMENT 2

### Coronavirus Food Assistance Program 2 (CFAP 2) Application Instructions - Example of AD-3117

The following is an example of AD-3117.

Form Approved - OMB No. 0560-0295 and 0560-0297  
OMB Expiration Date: 03/31/2021

This form is available electronically.

<b>AD-3117</b> (09-21-20)  <b>U.S. DEPARTMENT OF AGRICULTURE</b>  <b>CORONAVIRUS FOOD ASSISTANCE PROGRAM 2 (CFAP 2) APPLICATION</b>	1. Recording State  3. Recording County	2. Program Year  <b>2020</b>	4. Application Number
<p><small><b>NOTE:</b> The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 9, the CARES Act (Pub. L. 116-136), and 15 U.S.C. 714b and 714c. The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, and Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits. Payments may be made under the program to which the form applies only to the extent permitted by applicable authorities.</small></p> <p><small><b>Public Burden Statement (Paperwork Reduction Act).</b> Public reporting burden for this collection is estimated to average 60 minutes per response, including reviewing instructions, gathering and maintaining the data needed, completing (providing the information), and reviewing the collection of information. You are not required to respond to the collection, or USDA may not conduct or sponsor a collection of information unless it displays a valid OMB control number. <b>RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</b></small></p>			
<b>PART A PRODUCER AGREEMENT</b>			
<p>The Department of Agriculture (USDA) will make payments under the CFAP 2 to producers who meet the requirements of the program. The following information is needed in order for USDA to make a determination that the applicant is eligible to receive a CFAP 2 payment. By submitting this application, and upon its approval by USDA, the applicant agrees:</p> <ol style="list-style-type: none"> <li>1. To comply with regulations set forth in 7 CFR Part 9 and any applicable Notice of Funds Availability published by USDA. Copies of these documents may be found at <a href="http://www.regulations.gov/docket?D=FSA-2020-0004">www.regulations.gov/docket?D=FSA-2020-0004</a>.</li> <li>2. That the applicant is in the business of farming at the time of application.</li> <li>3. That payments for producers who began farming in 2020, for which 2019 production or sales is required, must provide actual 2020 production or sales information, as applicable.</li> <li>4. That a CFAP 2 payment will only be made with respect to a commodity produced in the United States and intended to be marketed for commercial production;</li> <li>5. To provide to USDA all information that is necessary to verify that the information provided on this form is accurate, and to allow USDA representatives access to all documents and records of the producer, including those in the possession of a third-party such as a warehouse operator, processor or packer;</li> <li>6. To comply with maximum payment limitation and adjusted gross income provisions applicable to the CFAP 2 by completing forms:             <ul style="list-style-type: none"> <li>• CCC-902, Farm Operating Plan for Payment Eligibility (<b>NOTE: Only Parts A and B of the form are required.</b>)</li> <li>• CCC-901, Member Information for Legal Entities, if applicable</li> <li>• CCC-941, Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information</li> <li>• CCC-942, Certification of Income From Farming, Ranching and Forestry Operations (optional)</li> </ul> </li> <li>7. To provide to USDA all information required for program participation within 60 days from the date the applicant signs this application. Failure of an individual, entity, or member of an entity to timely submit all information required may result in no payment or a reduced payment.</li> <li>8. To comply with the provisions of the Food Security Act of 1985 that protect highly erodible land and wetlands. All applicants must complete and submit all portions of form AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification unless:             <ol style="list-style-type: none"> <li>8A.                     <ol style="list-style-type: none"> <li>i. The applicant does not participate in USDA benefits subject to HELC and WC compliance except Federal Crop Insurance or CFAP, and</li> <li>ii. The applicant only has an interest in land devoted to the production of agricultural commodities that are perennial crops, excluding sugarcane, such as tree fruits, tree nuts, grapes, olives, native pasture and perennial forage. If the applicant produces alfalfa, the applicant must contact the Natural Resources Conservation Service to determine if such production qualifies as the production of a perennial crop; and</li> <li>iii. The applicant has not converted a wetland after December 23, 1985; or</li> </ol> </li> <li>8B.                     <ol style="list-style-type: none"> <li>i. The applicant does not own or rent land devoted to an agricultural activity including cropland, rangeland, pastureland or forestland;</li> <li>ii. The applicant is a producer of livestock, nursery crops, honey or similar commodity that is not produced from tillage of land</li> </ol> </li> </ol> </li> <li>9. If the applicant meets either the conditions in section 8A (certification with box 5 B on AD-1026) or 8B (certification with box 5 A on AD-1026), the applicant is only required to complete Parts A and D of form AD-1026.</li> </ol>			
<b>PART B PRODUCER INFORMATION</b>			
5. Producer's Name, Address (City, State and Zip Code) and Phone Number (Include Area Code)			
<b>PART C DAIRY PRODUCTION</b>		<b>COC USE ONLY</b>	
6. Unit of Measure	7. Total Production (April 1, 2020 – August 31, 2020)	8. COC Adjusted Total Production (April 1, 2020 – August 31, 2020)	9. Estimated Total Production (Sept. 1, 2020 – Dec. 31, 2020)
LBS			
10A. If you are no longer producing milk, what is the last date milk was produced? (MM/DD/YYYY): _____		<b>COC USE ONLY</b>	
<p><small><b>NOTE:</b> If you cease producing milk before Dec.31, 2020, or if you are a seasonal dairy, you are required to notify the FSA County office of the date you stopped producing milk.</small></p>		10B. COC Adjusted Last Date Milk was Produced	
		<b>COC USE ONLY</b>	
<b>PART D EGGS/BROILERS PRODUCTION</b>		<b>COC USE ONLY</b>	
11. Commodity	12. Unit of Measure	13. 2019 Total Production	14. COC Adjusted 2019 Total Production
BROILERS	HEAD		
DRIED EGGS	LBS		
FROZEN EGGS	LBS		
LIQUID EGGS	LBS		
SHELL EGGS	DOZEN		

PART E LIVESTOCK INVENTORY (Excluding Breeding Stock)		COC USE ONLY
15. Livestock	16. Inventory (Excluding Breeding Stock) (Highest on a Date Between April 16, 2020 – August 31, 2020)	17. COC Adjusted Inventory (Excluding Breeding Stock) (Highest on a Date Between April 16, 2020 – August 31, 2020)
CATTLE		
HOGS/PIGS		
SHEEP		

PART F SALES COMMODITIES		COC USE ONLY
18. Commodity	19. 2019 Total Commodity Sales	20. COC Adjusted 2019 Total Commodity Sales
AQUACULTURE		
CROPS (Excluding Part G Crops)		
NURSERY/FLORICULTURE CROPS		
MISCELLANEOUS		
OTHER LIVESTOCK (Excluding Breeding Stock)		
TOBACCO		

PART G ACREAGE BASED CROPS		COC USE ONLY			
21. Crop	22. Total 2020 Reported Acres	23. COC Adjusted Total 2020 Reported Acres	24. Weighted Insurance Approved Yield	25. COC Adjusted Weighted Insurance Approved Yield	26. 85% of Weighted County Yield

**PART H INCREASED PAYMENT LIMITATION FOR CORPORATIONS, LIMITED LIABILITY COMPANIES (LLCs), LIMITED PARTNERSHIPS, TRUSTS & ESTATES**

27. Applicants who are corporations, LLCs, and limited partnerships, trusts or estates may seek an increase in the per-person payment limitation from \$250,000 to either \$500,000, if such entity has two members, partners, stockholders, beneficiaries or heirs who each provided at least 400 hours or more of personal labor or active personal management, or combination thereof, to the farming operation as defined in 7 CFR Part 1400, or a maximum of \$750,000 if such entity has three members, partners, stockholders, beneficiaries or heirs who each provided at least 400 hours or more of personal labor or active personal management, or combination thereof, to the farming operation as defined in 7 CFR Part 1400. The applicant must identify the names of members, partners, stockholders, beneficiaries or heirs who provided at least 400 hours of active personal labor or active personal management, or combination thereof, to the farming operation identified in Part B item 5:

A.	B.	C.
----	----	----

**PART I PRODUCER CERTIFICATION**

*I hereby sign and acknowledge under penalty of perjury in accordance with 28 U.S.C. § 1746 and 18 U.S.C. § 1621 that the foregoing is true and correct.*

26A. Signature (By)	26B. Title/Relationship of the Individual Signing in the Representative Capacity	26C. Date (MM/DD/YYYY)
---------------------	----------------------------------------------------------------------------------	------------------------

**PART J COC DETERMINATION**

29. Payment Part	30. COC or Designee Signature	31. Date (MM/DD/YYYY)	32. Determination
CARES (TOBACCO ONLY)			<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED
CCC			<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED

In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its agencies, offices, and employees participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 725-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.nrcr.usda.gov/complaint\\_filing\\_civil.html](http://www.nrcr.usda.gov/complaint_filing_civil.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 622-6992. Submit your completed form or letter to USDA by (1) mail, U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW Washington, D.C. 20250-9410, (2) fax: (202) 690-7142; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider, employer, and lender.