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January 21, 2021

Kevin Norton
Acting Deputy Under Secretary for Farm Production and Conservation
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250

Steve Peterson
Acting Administrator, Farm Service Agency
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250

Comments on Implementation of Consolidated Appropriations Act of 2021

Dear Acting Under Secretary Norton and Acting Administrator Peterson:

As the nation's largest general farm organization, the American Farm Bureau Federation greatly appreciates the collective efforts of Capitol Hill leaders, the administration and the Department to assist U.S. farmers and ranchers greatly affected by the COVID-19 pandemic. The U.S. agricultural supply chain bent under the pressure of COVID-19, but did not break, thanks to endeavors like the Coronavirus Food Assistance Program and the Farmers to Families Food Box program.

The Consolidated Appropriations Act of 2021 provided an additional $13 billion to help farmers and ranchers continue to recover. On behalf of our nearly 6 million members, many of whom raise crops and livestock, milk cows, grow specialty crops, raise aquaculture or run nurseries, among other operations, we offer the following comments for consideration as the Department takes action on these new COVID-19 resources.

Resources for COVID-19 Mitigation Efforts
The Consolidated Appropriations Act of 2021 allocated a minimum of $1.5 billion for food purchases and loans and grants to help small and midsized food processors or distributors, seafood processing facilities and vessels, farmers markets and producers respond to COVID-19, including providing protection for employees. This funding prompted the Department to announce a $1.5 billion fifth round of the Farmers to Families Food Box program.

Committed to protecting our workforce, American farmers and ranchers have proactively implemented a variety of COVID-19 mitigation practices on the farm, including providing farmworkers personal protective equipment, utilizing sanitation protocols and retrofitting housing and packing lines. Safeguarding farmworkers will always be a non-negotiable priority for farmers and ranchers, but these COVID-19 mitigation efforts have come at a hefty, unplanned cost for farmers.

We urge the Department to work closely with farmers to stand up a program that provides the financial resources to continue to implement COVID-19 mitigation measures on the farm to protect farmer and farmerworkers' health and maintain continuity in the food supply chain.

Support for Farm Stress Programs
The COVID-19 pandemic follows a multi-year downturn in commodity prices and farm income. Low commodity prices and low farm profitability put considerable financial and emotional strain on farmers and ranchers across the U.S. The Consolidated Appropriations Act of 2021 includes $28 million in grant funding to state Departments of Agriculture, including the District of Columbia and Puerto Rico, to expand or sustain stress assistance programs for farmers, ranchers and others engaged in agricultural-related occupations.

To maximize the number of individuals served by these stress assistance programs, we urge the Department to issue guidance on how national and state nongovernmental organizations, such as agricultural stakeholder organizations, can collaborate with state Departments of Agriculture, cooperative Extension services and Native American tribes to provide or expand nationwide stress assistance programs. These resources will be critical in improving the mental health of farmers across the U.S.

Remaining Financial Resources from CFAP 1 and CFAP 2
Both of the Department's Coronavirus Food Assistance Programs have provided much-needed financial relief to producers of a variety of non-specialty crops, specialty crops, livestock, specialty livestock, dairy, aquaculture, poultry and eggs, among others. As of Jan. 3, USDA's payment dashboards indicate that approximately $10.6 billion in CFAP 1 support and $13 billion in CFAP 2 support has been distributed to producers across the U.S.[1] Additionally, the Department recently announced a new $2.3 billion CFAP assistance program. Based on USDA's cost-benefit analyses conducted in May and September 2020, and based on the most recent program payments, we believe there may be additional financial resources available to the Department.[2], [3]

Any remaining resources should be used to provide additional financial assistance for producers who continue to be impacted by COVID-19. We urge the Department to consider how any remaining funds can be used to supplement the $11.2 billion in assistance appropriated in the Consolidated Appropriations Act of 2021 to further support farmers, ranchers and our agricultural processors, such as dairy, textile and biofuel processors. In particular, we urge the Department to provide additional financial relief to help farmers offset ongoing financial losses

[1] CFAP 1 and CFAP 2 Payment Dashboards. Accessed online January, 2021: www.farmers.gov/cfap1/data www.farmers.gov/cfap/data
[2] "Coronavirus Food Assistance Program Cost-Benefit Analysis" May 14, 2020. Accessed online January 2021: https://www.farmers.gov/sites/default/files/documents/CFAP%20CBA%205%2015%202020.pdf
[3] "Coronavirus Food Assistance Program 2 Cost-Benefit Analysis" September 15, 2020. Accessed online January 2021: https://www.farmers.gov/sites/default/files/documents/CFAP2-CBA-09252020.pdf

or additional costs resulting from COVID-19, e.g., contract growers who continue to suffer from the loss of an integrator or continue to experience reduced livestock or poultry throughput from their integrator. Increasing financial and technical resources for on-farm COVID-19 mitigation efforts to protect farmers and farmworkers should also be considered.

Importantly, since these resources were appropriated by Congress to prevent, prepare for and respond to COVID-19, we urge the Department to make sure any remaining funds are used only for resources and relief efforts related to the pandemic.

Direct Payments to Contract Growers of Livestock and Poultry
The Consolidated Appropriations Act of 2021 provided up to $1 billion for payments to contract growers of livestock and poultry to cover not more than 80% of revenue losses during 2020. Recently, the Department announced details of this new assistance program, adding eligibility for contract growers of livestock and poultry. Eligible producers include contract growers of broilers, pullets, layers, chicken eggs, turkeys, hogs or pigs under contract in 2019 and 2020. The assistance is based on 80% of the difference in eligible revenue between Jan. 1, 2019, and Dec. 27, 2019, to Jan. 1, 2020, and Dec. 27, 2020. For a variety of reasons a comparison of year-over-year changes in revenue may not adequately capture the decline in revenue associated with COVID-19.

Revenue for contract livestock and poultry producers varies from year to year and is influenced by a variety of factors including the number of animals delivered under the terms of a marketing contract (the number of turns), the delivery date and location, pricing formula or mechanism and premium structure, feed efficiency and performance in raising the livestock or poultry, among other factors. Moreover, contract livestock or poultry producers who had expanded their operations just before pandemic-related disruptions may not have a documented historical revenue that aligns with the expected revenue of the operation pre-COVID-19. For example, a comparison of revenue for a contract poultry grower who added new chicken housing in mid-2019 may show higher revenue during 2020 despite having additional out time in all houses during the year. We urge the Department to allow for contract livestock and poultry producers to account for revenue changes that were non-COVID-19 related.

Additionally, poultry integrators provide settlement sheets detailing contract poultry growers' base pay and bonuses. These settlement sheets often vary by poultry integrator and may place an undue burden on USDA staff in verifying the contract growers' revenue in counties in which multiple integrators operate.

If documentation of the contract grower's settlement sheets or historical or expected revenue are unavailable, or if verifying the contract grower's revenue places an undue burden on the grower or USDA staff, we urge the Department to use a proxy for the contract grower's revenue. Consideration should be given to making program payments based on total facility square footage or the amount of out time on the contract grower's livestock or poultry operation.

Importantly, the Consolidated Appropriations Act of 2021 authorizes payments for contract growers from Jan. 1, 2020, through Dec. 27, 2020. However, for a large number of contract livestock and poultry growers, the loss of their integrator continues to put these farms at financial risk into 2021. Without an integrator and with empty chicken houses, sow farms, wean-to-finish farms or nursery finishing floors, contract growers will see financial losses continue into 2021. We urge the Department to consider revenue losses that extend into calendar year 2021 when calculating program payments or considering additional and supplemental payments for contract livestock and poultry producers.

Should an integrator permanently cease operating in a region, the contract livestock and poultry producers who worked with the integrator may have to make additional investments to either remodel their facilities or demolish and rebuild their farm operations to meet the needs of a new integrator. This is a significant financial investment for family farmers. We urge the Department to consider efforts to offset a portion of this financial burden or provide financing incentives for growers impacted by COVID-19-related plant or integrator closures.

Direct Payments to Producers Depopulating Livestock or Poultry
As a result of supply chain disruptions in livestock and poultry processing, such as a lack of packing or processing capacity, many contract and independent livestock and poultry producers were forced to depopulate animals. The Consolidated Appropriations Act of 2021 provides financial assistance based on 80% of the fair market value of the livestock or poultry depopulated, as well as the costs of depopulation. Given that the market value of livestock and poultry depends on a variety of factors including but not limited to the production region, quality and associated premiums, we urge the Department to use the most robust and geographically appropriate figures in determining fair market value for the depopulated animals.

Supplemental Cattle Inventory Payments
Funds must be used to reconcile the difference between CFAP 1 and CFAP 2 inventory payments for those who sold livestock on or shortly after the April 15 date. To facilitate the timely distribution of financial resources to cattle producers and to ease the administrative burden on USDA staff, we urge the Department to provide this supplemental payment to producers who filed a CFAP inventory claim, rather than having them reapply. We also urge the Department to make culled dairy cows eligible for supplemental cattle inventory payments.

Livestock Dealer Trust
AFBF fully supports the implementation of the Livestock Dealer Trust and looks forward to working closely with USDA as they plan to implement the program.

Supplemental Payments for Price Trigger and Flat-Rate Crops
The second Coronavirus Food Assistance Program defined price trigger crops as crops that experienced a 5% or greater price decline and include barley, corn, sorghum, soybeans, sunflowers, upland cotton and all classes of wheat. CFAP 2 defined flat-rate crops as crops that either does not meet the 5% price decline trigger or do not have data available to calculate a price change. Flat-rate crops include alfalfa, amaranth grain, buckwheat, canola, ELS cotton, crambe, einkorn, emmer, flax, guar, hemp, indigo, industrial rice, kenaf, khorasan, millet, mustard, oats, peanuts, quinoa, rapeseed, rice, sweet rice, wild rice, rye, safflower, sesame, speltz, sugar beets, sugarcane, teff and triticale.

The Consolidated Appropriations Act of 2021 provides producers of 2020 price trigger crops and flat-rate crops a payment of $20 per eligible acre of the crop. Farm Service Agency 2020 acreage data as of Dec. 10, 2020[4], indicates that during 2020, 10.6 million acres covering 65 specialty and non-specialty crops were prevented from being planted. Among the top 11 crops, more than 10 million acres were prevented from being planted. The acres represent nearly $209 million in potential COVID-19 support. This financial support for acres prevented from being planted will ensure farmers have financial resources to recover from COVID-19-related financial damages. For these reasons, we urge the Department to make both planted acres and acres prevented from being planted eligible for additional COVID-19 relief payments.

Acres Prevented From Being Planted in 2020 and Estimated Supplemental COVID-19 Relief for Select Crops

Crop	Prevent Plant Acres in 2020	CFAP 2 Category	Estimated Supplemental Payment Amount
Corn	6,186,120	Price Trigger	$123,722,390
Soybeans	1,476,456	Price Trigger	$29,529,125
Wheat	1,271,918	Price Trigger	$25,438,367
Rice	495,762	Flat-Rate	$9,915,236
Upland Cotton	403,692	Price Trigger	$8,073,837
Sorghum	298,031	Price Trigger	$5,960,620
Canola	92,688	Flat-Rate	$1,853,770
Sunflowers	85,075	Price Trigger	$1,701,499
Beans (Dry Edible)	63,772	Sales-Based	$1,275,449
Cotton ELS	44,714	Flat-Rate	$894,280
Barley	31,700	Price Trigger	$633,993
Total	**10,449,928**		**$208,998,567**

Supplemental Assistance for Sales-Based Commodities

The second CFAP expanded the assistance available to a variety of specialty crops, specialty livestock, aquaculture, floriculture and nursery crops, among others using the sales-based approach. Under CFAP 2, sales-based commodities were eligible for a program payment based on the farm operation's 2019 sales. The Consolidated Appropriations Act of 2021 modifies the definition of eligible sales to include indemnities received under crop insurance, payments made under the noninsured crop disaster assistance program, and payments made from the Wildfire and Hurricane Indemnity Program-Plus. Additionally, the Consolidated Appropriations Act of 2021 allows a farmer to substitute 2018 sales with 2019 sales to address sales variability and better align the COVID-19 relief with financial needs for the farm operation.

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[4] FSA Crop Acreage Data Reported to FSA, Accessed Online January 2021: https://www.fsa.usda.gov/news-room/efoia/electronic-reading-room/frequently-requested-information/crop-acreage-data/index

We urge the Department to ensure all current CFAP 2 eligible commodities, including new commodities recently announced for additional CFAP support such as turfgrass sod and pullets, remain eligible for additional relief in the Consolidated Appropriations Act of 2021. Additionally, we urge the Department to communicate and educate growers of sales-based commodities of the opportunity to amend their previous CFAP application based on these new guidelines.

Support for Biofuel Producers

With fewer cars on the roads since mid-March 2020 due to remote work and shelter-in-place orders, ethanol demand and the prices have dropped, pushing ethanol production down for more than 40 consecutive weeks relative to prior-year production levels.[5] The total shortfall in ethanol production during this time is nearly 1.9 billion gallons. Assuming a conversion rate of 2.8 gallons per bushel of feedstock, this shortfall represents more than 675 million bushels of corn that would have been used and billions of dollars in foregone revenue to biofuel processing facilities across rural America.

To ensure that these processing assets remain available to farmers in rural America, we urge the Department to make payments to producers of advanced biofuel, biomass-based diesel, cellulosic biofuel, conventional biofuel and renewable fuel.

Farmers to Families Food Box Program

In 2020, the Farmers to Families Food Box programs successfully delivered more than $3 billion in combination boxes, dairy product boxes, fluid milk boxes, fresh fruit and vegetable boxes and precooked meat boxes. The recently announced fifth round of the Farmers to Families Food Box program is likely to have similar success in facilitating the distribution of fresh produce, dairy, meat and seafood products to needy Americans while preventing food waste.

Of the fresh produce, dairy, meat and seafood items included in the program, only processed dairy commodities have publicly traded spot, futures and options derivative instruments on the Chicago Mercantile Exchange. The CME offers spot, futures and options market transactions for block and barrel cheddar cheese, butter, nonfat dry milk and dry whey.

The use of cheese in the Farmers to Families Food Boxes in greater proportion than other publicly traded dairy products such as butter has contributed to record-large spreads between the Class III milk price (milk used to produce cheese) and the Class I milk price (fluid use) and the Class IV milk price (milk used to produce butter and nonfat dry milk powder). As an example, on Jan. 5, 2021, following the announcement of the fifth food box round, Class III milk futures rose while Class IV prices were unchanged. The price disconnect, driven by the food donation efforts, has several unintended and detrimental consequences concerning milk pricing, Federal Milk Marketing Order revenue sharing pools and the use of public and private risk management

[5] Weekly Ethanol Plant Production. Energy Information Administration. Accessed Online January 2021: https://www.eia.gov/dnav/pet/pet_pnp_wprode_s1_w.htm

instruments including USDA's Dairy Revenue Protection and Dairy Margin Coverage programs. Many of these unintended consequences have been damaging to dairy farmers' income in 2020 and made the use of risk management tools highly ineffective.

To address the concerns related to the use of cheddar cheese in the food box program, we urge the Department to prioritize the purchase and distribution of butter as well as other hard, semi-firm or semi-soft cheese, such as blue, brick, Colby, Edam, Gorgonzola, Gouda, Gruyere, Monterey, Muenster, Parmesan, provolone and Romano. The use of cheddar cheese in the food box program should be carefully considered to not distort the price relationship among the dairy commodities used in USDA's end-product milk pricing formulas.

Dairy Donation Program
In addition to the $1.5 billion minimum in much-needed resources for a Food and Agricultural Products Purchase and Distribution Program, which is likely to include dairy products, the Consolidated Appropriations Act of 2021 creates a $400 million stand-alone and dairy-specific Dairy Donation Program.

To ensure this program serves its intended purpose of minimizing the dumping of milk and providing a timely donation of dairy products to needy Americans, we urge the Department to prioritize non-retroactive donation and distribution plans. We also have several other recommendations for ensuring program integrity.

First, when determining reimbursement for donated dairy products, we urge the Department to take into consideration that spot milk prices at times may be below the class price of milk, e.g., USDA's Jan. 1, 2021, Dairy Market News Report indicated spot milk prices in the Midwest were $5 to $10 below the classified price.[6] If the Department reimburses dairy products donated at a higher class price when the milk was potentially purchased at a discount, it would create a financial windfall for the dairy processor. To maximize the dairy donation program's impact on reducing food waste and providing timely distribution of dairy products, the Department should adjust reimbursement rates by an amount equal to the total discount on all loads of milk purchased by the dairy processor during the month the donated dairy product is processed.

Additionally, we urge the Department to utilize uniform conversion factors for converting raw milk into a finished dairy product when determining the cost of milk required to make the donation-eligible dairy product. We also urge the Department to give priority to donation plans that help preserve pre-COVID-19 price relationships among commodity prices used to determine the classified value of milk, i.e., cheddar cheese, butter, nonfat dry milk and dry whey. During 2020, the price spreads between cheddar cheese and the other dairy commodities used in Federal Milk Marketing Order pricing formulas were historically wide, leading to adverse price relationships, de-pooling of milk from FMMO revenue sharing pools and record-large milk check deductions through negative Producer Price Differentials. Ensuring those price

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[6] Dairy Market News. January 1, 2021. Accessed online January 2021:
https://mymarketnews.ams.usda.gov/filerepo/sites/default/files/2998/2020-12-31/400293/ams_2998_00045_01.pdf

relationships are not distorted through dairy donation efforts will safeguard orderly marketing conditions for milk.

Supplemental Payments for Price Differentiation Factors

We urge the Department to consider the impact of milk price disruptions on dairy farmer income for eligibility for supplemental payments related to revenue losses associated with price differentiation factors.

For example, supplemental payments could be made directly to dairy farmers or the Federal Milk Marketing Order pools to offset negative Producer Price Differentials and milk de-pooling created by food box-related price disparities. Farm Bureau economists estimate that the revenue shortfall in component pricing FMMOs due to these issues is over $2 billion.[7] Additional losses were also experienced in skim-fat pricing FMMOs due to milk de-pooling.

These revenue shortfalls could continue in 2021 given recent price relations between Class III and Class IV milk observed on the CME.[8] Supplemental payments to offset the price impact of the food box program would allow USDA to continue successful efforts in food distribution and food waste minimization, while also ensuring dairy farmers are not negatively impacted financially through FMMO de-pooling and negative PPDs. Should the supplemental payments be made to the FMMO revenue sharing pool, we urge the Department to consider enforcing FMMO minimum payments for all independent and cooperative milk pooled on the FMMO.

Recourse Loans for Dairy Product Processors

The Consolidated Appropriations Act of 2021 authorizes the Department to make recourse loans available to dairy product processors that have been negatively impacted by COVID-19. These loans will provide working capital to dairy processors that primarily serve the restaurant and foodservice industry, which has been particularly hard hit by the pandemic. Keeping these processors in business until the restaurant and foodservice sectors recover and dairy purchases resume their pre-COVID-19 patterns would benefit the dairy farmers who supply these processors and provide stability to the entire dairy industry.

The global pandemic continues to bring challenges to the food and agricultural sector. USDA staff has worked diligently, quickly and effectively in delivering much-needed financial assistance to the countryside and in standing up a food box program to distribute fresh produce, dairy, milk and meats to needy Americans. In delivering the most recent aid provided by the Consolidated Appropriations Act of 2021, we hope the Department will strongly consider our recommendations during the rulemaking and implementation process.

On behalf of America's farmers and ranchers, thank you for all you do for agriculture.

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[7] "More Negative PPDs and De-Pooling Reignite Federal Milk Marketing Order Debate." American Farm Bureau Federation. December 2020.

[8] "Milk Prices Surge After USDA Food-Box Aid Program Extended." Bloomberg News. January 2021. https://www.bloomberg.com/news/articles/2021-01-05/milk-prices-surge-after-usda-food-box-aid-program-extended

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Sincerely,

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