



Trade Adjustment Assistance for Farmers

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Summary

The 111th Congress, in the 2009 economic stimulus package (P.L. 111-5, Division B, Subtitle I), reauthorized and temporarily revised a number of trade adjustment assistance (TAA) programs. One of these TAA programs is directed toward agricultural producers who experience adverse impacts caused by increased imports of the commodity that they produce. First authorized in 2002, the Trade Adjustment Assistance for Farmers (TAAF) program extended cash payments and technical assistance to producers who met specified criteria. Funding for this little-used program had expired at year-end 2007.

P.L. 111-5 includes a compromise reached in conference to temporarily reauthorize all TAA programs. For the TAAF, funding is authorized through year-end 2010. One major change lowers a key threshold and broadens the scope of the factors to be examined, making it easier for any group of commodity producers, including fishermen, to qualify for assistance. Previously, a group had to show that increased imports had significantly contributed to at least a 20% decline in the price of the commodity produced. Now, a group must show that imports were a significant cause for at least a 15% decline in the price of the commodity or in two other factors (e.g., a 15% reduction in the quantity of the commodity produced or a 15% fall in the production value of the commodity). Program benefits (technical and financial assistance) will be available to producers through 2011 if their eligibility has been established, or they have petitioned to be certified to be eligible, before January 1, 2011.

Also, instead of receiving cash payments automatically under a formula as before, a producer that meets three requirements becomes eligible for financial assistance only upon the completion of training intended to help him become more competitive in producing the same or another commodity. A producer must show that (1) the commodity was produced in the current and also in one recent previous year, (2) the quantity of the commodity produced decreased compared to a previous year, or the price received for the commodity decreased compared to a preceding three-year average price, and (3) no benefits were received under any other TAA program. An eligible producer is limited to receiving not more than \$12,000 in a three-year period for developing and implementing a business adjustment plan designed to address the impact of import competition.

On March 1, 2010, the U.S. Department of Agriculture (USDA), which administers this program, published the interim rule to immediately begin to implement the program. Petitions from groups of producers requesting to be certified as eligible for assistance must be filed by April 14, 2010.

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Rationale for Program

The origin of the Trade Adjustment Assistance for Farmers program can be traced back to a 2000 Department of Labor report recommending that a separate program be enacted “to assist agricultural producers and workers affected adversely by imports” if the objective is to assist them to remain in their current occupations. The report described the existing trade adjustment assistance (TAA) programs that provided (1) limited technical assistance to help business firms (including some that produced agricultural and food products) regain economic competitiveness or to shift into producing other goods, and (2) training assistance to workers (including those employed by some agricultural firms) to facilitate their transition into other occupations. It noted that the provision of direct financial assistance (such as income supplements) to farmers, or efforts to financially enable them to continue producing the commodity adversely affected by imports rather than help them adjust to employment in other sectors, would be inconsistent with the objectives of the then-existing TAA programs.¹

Observers have stated that farmers and ranchers typically cannot qualify for the TAA workers program because they are self-employed (and thus rarely are eligible for unemployment benefits) and because they are less likely to want to be retrained for a new occupation (particularly if earning income from producing other crops or from non-farm sources). Others point out that agricultural producers most likely to be affected by import surges produce a commodity that receives little or no price protection nor direct payments under traditional farm subsidy programs. Frequently cited is the impact of increased competition that U.S. fruit and vegetable growers, as well as livestock producers, have encountered due to imports from Mexico and Canada under the North American Free Trade Agreement.²

Overview of TAAF Program

The Trade Act of 2002 established a new Trade Adjustment Assistance for Farmers (TAAF) program.³ It is administered by the U.S. Department of Agriculture’s (USDA) Foreign Agricultural Service (FAS). As amended by the enacted 2009 economic stimulus package,⁴ the program assists agricultural producers who have been adversely affected by competition from imports of a commodity that they produce. An “agricultural commodity producer” is defined as a “person that shares in the risk of producing an agricultural commodity and that is entitled to a

¹ Department of Labor, “Report on Trade Adjustment Assistance for Agricultural Commodity Producers,” transmitted by the Secretary of Labor to the House Ways and Means and Senate Finance Committees on October 26, 2000. This report was required by Section 408 of the Trade and Development Act of 2000 (P.L. 106-200).

² CRS Report RS21182, *Trade Adjustment Assistance for Farmers*, by Geoffrey S. Becker. This report provides background on the TAA for Firms and TAA for Workers programs, the extent to which agricultural businesses and employees in the agricultural sector took advantage of these programs through FY2000, and the legislative developments that led to TAAF program enactment. For information on the other TAA programs and current issues, see CRS Report RS20210, *Trade Adjustment Assistance for Firms: Economic, Program, and Policy Issues*, by J. F. Hornbeck; CRS Report RL34383, *Trade Adjustment Assistance (TAA) for Workers: Current Issues and Legislation*, by John J. Topoleski; CRS Report RS22718, *Trade Adjustment Assistance for Workers (TAA) and Reemployment Trade Adjustment Assistance (RTAA)*, by John J. Topoleski; and CRS Report RS22761, *Extending Trade Adjustment Assistance (TAA) to Service Workers: How Many Workers Could Potentially Be Covered?*, by John J. Topoleski.

³ P.L. 107-210, Sections 141-142, approved August 6, 2002, 116 Stat. 946 (19 U.S.C. 2401 et seq.).

⁴ American Recovery and Reinvestment Act of 2009, P.L. 111-5, Sections 1856, 1881-1887, and 1891-1894, approved February 17, 2009, 123 Stat. 115.

share of the commodity for marketing, including an operator, a sharecropper, or a person that owns or rents the land on which the commodity is produced,” or a person who reports a gain or loss on a federal income tax return from “the trade or business of fishing.” Support is available in the form of enhanced technical assistance and seed money to enable a producer to formulate and implement a business adjustment plan. Producers of raw and natural agricultural commodities (crops, livestock, farm-raised aquatic products, and wild-caught seafood that competes with aquaculture products) and of “any class of goods within an agricultural commodity” must follow a two-part process to qualify for benefits.

Requirements for a Commodity Group to be Certified

A group of agricultural producers can petition the Secretary of Agriculture to be certified as eligible for the TAAF program (i.e., to qualify for benefits). To certify a commodity group, the Secretary must determine that the increase in imports of the agricultural commodity produced by members of the group “contributed importantly”⁵ to at least a 15% decline in the national average price, quantity of production, or value of production or cash receipts of the commodity.⁶ In making a determination, the Secretary must compare the volume of imports of “articles like or directly competitive with the agricultural commodity” produced by the group in the marketing year in which the petition is filed, to the average volume of imports in the three preceding marketing years. The addition of two other factors—“quantity of production” and “value of production/cash receipts”—to be looked at besides price gives the Secretary greater flexibility in determining if a commodity group is eligible to access program benefits. The Secretary has 40 days to make a determination on a group’s petition.

Individual Producer Eligibility Requirements

If the Secretary certifies that a group qualifies for assistance, each producer in the group has 90 days to apply for TAAF benefits. To be eligible, an individual producer must show in the application submitted to USDA that (1) the agricultural commodity was produced in the year covered by the group’s petition and in at least one of the three preceding marketing years, (2) the quantity of the commodity produced in that year has decreased compared to the amount produced in a previous year, or the price received for the commodity in that year has decreased compared to the average price received in the preceding three marketing years,⁷ and (3) no cash benefits were received under the TAA for Workers and TAA for Firms programs, nor were benefits received based on producing another commodity eligible for TAAF assistance.

Program Benefits

The changes enacted in 2009 refocus the TAAF program by (1) making technical assistance available to an eligible producer, and (2) providing financial resources so that a producer can put into effect a business plan to make adjustments in the operation.

⁵ Defined as “a cause which is important but not necessarily more important than any other cause.”

⁶ Prior to the enactment of P.L. 111-5, a group of agricultural producers had to show a larger decline (of 20%) in the price of the commodity due to imports, in the most recent year relative to the price average for the five preceding years.

⁷ A producer has the option of instead showing that the county-level price for the commodity on the date a group files a petition has decreased compared to the average county-level price in the preceding three marketing years.

A producer approved for the TAAF program is entitled to receive initial technical assistance (TA) to improve competitiveness in the production and marketing of the commodity certified to receive benefits. Such assistance is to include information on what steps could be taken to improve the yield and marketing of that commodity, and on exploring the feasibility and desirability of substituting one or more alternative commodities for the one being produced. USDA can provide supplemental assistance to cover reasonable transportation and subsistence expenses that a producer incurs in accessing initial technical assistance if provided in a location outside a normal commuting distance.

A producer who completes this initial phase is eligible to participate in intensive technical assistance. These include training courses to assist the producer in improving the competitiveness of the same commodity or an alternative commodity, and financial assistance to develop an initial business plan based on the courses completed. USDA is required to approve a producer's initial business plan if it reflects the skills gained by the producer through the courses taken. Further, this plan must demonstrate how the producer will apply these skills to his circumstances. If the plan is approved, the producer is entitled to not more than \$4,000 to implement this plan, or to develop a long-term business adjustment plan.

A producer who completes the intensive phase and whose initial business plan has been approved is eligible for assistance to develop a long-term business adjustment plan. USDA is required to approve this adjustment plan if it includes steps calculated to materially contribute to the producer's economic adjustment to changing market conditions, takes into account the interests of the workers employed by the producer, and demonstrates that the producer will have sufficient resources to implement the business plan. If approved, the producer is entitled to \$8,000 to implement this long-term plan.

Limitations on Producer Financial Assistance

The amount of assistance that a producer can receive to implement both the initial business plan and the long-term business adjustment plan is limited to \$12,000 in the 36-month period after USDA has certified producers of the commodity as eligible for TAAF benefits. Further, TAAF-eligible producers cannot receive cash benefits under any other TAA program.

An applicant is ineligible for TAAF assistance in any year in which average adjusted gross income exceeds the level specified in Section 1001D of the Food Security Act of 1985 as amended (i.e., \$500,000 of non-farm income, or \$750,000 of farm income, depending on the details of the applicant's involvement in a farm operation, beginning with the 2009 crop year).⁸

Written Notices to Producers

The Secretary of Agriculture is required to provide written notice to each agricultural commodity producer in a group certified as eligible to receive benefits. A notice stating the benefits available to certified producers must also be published in newspapers of general circulation in the areas in which such producers reside.

⁸ For additional information on the new payment limitation rules made by P.L. 110-246, see CRS Report RL34594, *Farm Commodity Programs in the 2008 Farm Bill*, by Jim Monke, pp. 14-18.

Program Coordination

When notified by the International Trade Commission (ITC) that it has begun a safeguard investigation of a particular agricultural commodity, the Secretary of Agriculture is required to conduct a study of (1) the number of agricultural commodity producers who are producing a competitive commodity who have been or are likely to be certified eligible for TAAF, and (2) the extent to which existing programs could facilitate producers' adjustment to import competition.⁹ A safeguard (e.g., in the form of additional tariffs, expanded quota, or another restriction on imports) is intended to provide relief from the adverse impact of imports when temporary protection will enable the domestic sector (i.e., producers) to make adjustments to meet import competition.

Within 15 days after the ITC has determined whether or not injury has occurred and reported its recommendations to the President, the Secretary must submit a report to the President on the USDA study's findings.

Program Funding

Section 1887 of P.L. 111-5 authorizes and appropriates \$90 million in each of FY2009 and FY2010, and \$22.5 million for the first quarter of FY2011.¹⁰ The new funding authorization specifies that funding shall cover the costs of administering the TAAF program, as well as the salaries and expenses of USDA employees who administer it. Conferees dropped a Senate provision (Section 1701(c)) that would have made funding available retroactively for TAAF (i.e., back to January 1, 2008).

If appropriated funds are not sufficient to meet the commitments for adjustment assistance for eligible farmers in any year, the amounts paid out are required to be reduced proportionately.

Sunset of 2009 TAAF Amendments

The changes enacted in 2009 to TAAF program authority are temporary in nature. Though funding is authorized only through year-end 2010, producers will be able to access technical and financial assistance during calendar year 2011 if their eligibility had already been established and USDA had approved their application. Program benefits also will be available to producers of a group that files a petition for certification before January 1, 2011, if USDA determines that the group is eligible. In both cases, benefits will be available to the extent that funds are available and only to those eligible to receive technical or financial assistance.

⁹ The ITC safeguard investigation would be triggered, under Section 202 of the Trade Act of 1974, by a petition filed by an affected party (e.g., trade association or industry group) seeking relief from competition caused by imports that are traded fairly but which cause or threaten to cause injury to a domestic industry. For additional information on this safeguard authority and its use, see CRS Report RL31296, *Trade Remedies and Agriculture*, by Geoffrey S. Becker and Charles E. Hanrahan.

¹⁰ The statute that established the TAAF program (the Trade Act of 2002) authorized and appropriated to USDA funds not to exceed \$90 million for each of FY2003 through FY2007. Section 1(c) of P.L. 110-89 authorized \$9 million in appropriations for the first quarter of FY2008 (through December 31, 2007). No funding was authorized during the remainder of FY2008. Funding for FY2009 will only become available in mid-May 2009, when the changes made to TAA programs by P.L. 111-5 take effect.

Effective January 1, 2011, TAAF authorities will revert to those that were enacted in 2002 and applied through year-end 2007. This would suggest that the issues of TAAF statutory authority and funding may be revisited at some point during 2010. However, to the extent that producers are eligible for benefits as of December 31, 2010, or had petitioned to be certified by no later than that date, the changes enacted in 2009 will apply to them.¹¹

TAAF Program Activity to Date

Activity under the TAAF since 2002 has been much lower than authorized funding levels because of low producer participation and low payments, according to the Government Accountability Office (GAO).¹² Of the \$459 million authorized for the more than five-year period described above, budget outlays totaled almost \$47 million, according to USDA's Office of Inspector General (OIG).¹³ This included \$27.7 million in cash benefits paid to producers, \$9.5 million for technical assistance, and \$9.5 million for administrative costs (**Table 1**).

Of the 72 petitions filed by producer groups for assistance during the four-year period that USDA received petitions, USDA certified or approved 30 groups as eligible for assistance. Shrimp and salmon producers accounted for most of the cash benefits paid out. Producers of Concord grapes, lychees, olives, wild blueberries, fresh potatoes, Florida avocados, snapdragons, and catfish were among others that USDA certified to be eligible for assistance. About 8,400 producers qualified for cash payments (**Table 2**).

Issues

Two issues limited producer participation in the initially authorized TAAF in effect through 2007. One was the difficulty that groups of agricultural producers faced in meeting eligibility criteria (i.e., demonstrating that the price of the commodity produced had declined by at least 20% and that imports contributed importantly to the price decline). Also, many producer groups seeking to be recertified for benefits in a subsequent year saw USDA deny their petition, because of their difficulty in showing that imports of a commodity had further increased and that the increase noticeably contributed to the fall in price.¹⁴ The newly enacted changes lower the threshold for being adversely affected by imports and introduce more flexible producer eligibility requirements that are intended to enable more producers to qualify for program benefits.

¹¹ Sections 1892 and 1893 of P.L. 111-5.

¹² GAO, *Trade Adjustment Assistance: New Program for Farmers Provides Some Assistance, but Has Had Limited Participation and Low Program Expenditures*, at <http://gao.gov/products/GAO-07-201>, GAO-07-201, December 2006.

¹³ OIG, Northeast Region, "Audit Report—Trade Adjustment Assistance for Farmers Program," at <http://www.usda.gov/oig/webdocs/50601-03-HY.pdf>, Report No. 506-1-3-Hy, June 2007, p. 2; USDA, *FY2009 Budget Summary and Annual Performance Plan*, p. 27.

¹⁴ GAO, pp. 2-3.

Table I. TAAF Outlays, by Type, FY2003-FY2007

(\$ in millions)

Fiscal Year	Cash Payments to Producers	Technical Assistance Training	Administrative Costs	Total
FY2003	0.0	3.6	2.6	6.2
FY2004	12.6	0.8	2.9	16.3
FY2005	14.4	4.1	2.4	20.9
FY2006	0.7	1.0	1.6	3.3
FY2007 ^a	—	—	—	—
Total, FY2003-FY2007	27.7	9.5	9.5^b	46.7

Source: USDA, OIG.

Notes:

- a. Not available.
- b. Reflecting implementation by four USDA agencies: Foreign Agricultural Service (\$1.1 million), Economic Research Service (\$0.5 million), Farm Service Agency (\$7.0 million), and Cooperative, State Research, Education, and Extension Service (\$0.8 million).

Table 2. Activity Under Trade Adjustment Assistance for Farmers Program, FY2003-FY2007

Fiscal Year	Number of Petitions Filed	Number of Petitions Certified	Number of Producer Applicants Covered by Approved Petitions
FY2003	0	NA	NA
FY2004	25	12	4,512
FY2005	20	14	3,686
FY2006	19	4	208
FY2007	8	0	NA
Total, FY2003-FY2007	72	30	8,406

Source: U.S. International Trade Commission, recent year issues of *The Year in Trade*.

Program Status

On August 25, 2009, USDA's Foreign Agricultural Service published a proposed rule that establishes procedures for a group to request certification of eligibility, and for individual producers to apply for technical assistance and cash benefits, under the amended TAAF program.¹⁵

On March 1, 2010, USDA issued an interim rule (which still allows for a 30-day comment period) and announced it would immediately begin to implement the program. This will allow producer

¹⁵ *Federal Register*, Department of Agriculture, Foreign Agricultural Service, "Trade Adjustment Assistance for Farmers," August, 25, 2009, pp. 42799-42804, available at <http://edocket.access.gpo.gov/2009/pdf/E9-20345.pdf>.

groups to submit petitions to be certified for eligibility, which if approved, will permit individual members of a group to apply for program benefits.¹⁶ For this first round, USDA will accept petitions through April 14, 2010. If a petition is approved, eligible producers must file applications for assistance within 90 days of the certification.¹⁷

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¹⁶ *Federal Register*, Department of Agriculture, Foreign Agricultural Service, “Trade Adjustment Assistance for Farmers,” March 1, 2010, pp. 9087-9093, available at <http://edocket.access.gpo.gov/2010/pdf/2010-3984.pdf>, and March 11, 2010, p. 11513, available at <http://edocket.access.gpo.gov/2010/pdf/2010-5238.pdf>.

¹⁷ See <http://www.fas.usda.gov/itp/taa/taa.asp> for additional information.