

DATE: May 11, 2022

TO: Brenda Aguilar
Branch Chief

THROUGH: Ruth Brown
USDA Information Collection Officer

FROM: Kimberly Graham
Acting Deputy Administrator for Farm Programs

SUBJECT: Request for Emergency Approval for a New Information Collection
Package—Emergency Relief Program (ERP) – Phase 1

The Farm Service Agency (FSA) is requesting OMB approval on the emergency approval of a collection of information necessary to implement the Emergency Relief Program (ERP) Phase 1, which will assist producers who suffered losses of crops, trees, bushes, and vines due to wildfires, hurricanes, floods, derechos, excessive heat, winter storms, freeze (including a polar vortex), smoke exposure, excessive moisture, qualifying drought, and related conditions occurring in calendar years 2020 and 2021. FSA needs to disburse the payments to the eligible producers quickly to cover the losses of crops, trees, bushes and vines, and the payments will seriously assist the producers not to consider making business decisions to lose the farm business.

ERP will use some of the funds from the \$10 billion provided by the Extending Government Funding and Delivering Emergency Assistance Act, (Division B, Title I, Pub. L. 117-43).

Losses due to drought are eligible for assistance under ERP only if an area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D2 (severe drought) for eight consecutive weeks or a D3 (extreme drought) or higher level of drought intensity during the normal grazing period.

FSA is administering ERP in two phases:

- ERP Phase 1 will use a streamlined process with pre-filled application forms for losses where the data is already on file with FSA or the Risk Management Agency (RMA), as a result of the producer previously receiving a Noninsured Crop Disaster Assistance Program (NAP) payment or a crop insurance indemnity under certain crop insurance policies.
- ERP Phase 2 will provide payments for other eligible losses through a traditional application process during which producers will provide their crop, tree, bush, and vine loss information required to calculate a payment. This request does not cover Phase 2, which will have a 60-day comment period, which will be included in the NOFA for ERP Phase per normal PRA procedures.

The collection of information is essential to the mission of FSA because it is part of the safety net to help producers whether the storms and absorb the losses that are due to mother nature and not due to any fault of theirs.

FSA cannot reasonably comply with the normal PRA clearance procedures under 5 CFR part 1320 because:

- Public harm is reasonably likely to result if normal PRA clearance procedures are followed – that public harm would be to the producers who have suffered crop, tree, bush, and vine losses, many of whom may not be able to absorb those losses and any additional delay in assistance could cause them to have to consider making business decisions that they would not otherwise choose to make, which could result in potential food shortages or other changes that could extend the harm to consumers and others in the line of business (5 CFR 1320.13(a)(2)(i)).

FSA is currently finalizing details of ERP Phase 1 program administration and expects to publish a NOFA announcing ERP Phase 1 by May 9, 2022. FSA expects to announce ERP Phase 2 in the *Federal Register* later this year.

Estimated Timeline

May 9, 2022 ERP Phase 1 Notice of Funds Availability (NOFA) will be published in the *Federal Register*. FSA will provide the application form and information to the contractor to prepare for printing and mailing of Phase 1 applications. A final version of the form is required, including the OMB control number and expiration date. The NOFA will include a 60-day notice requesting comments from the public to continue the collection beyond 6-month.

May 20, 2022 ERP Phase 1 application mailing will begin.

FSA worked diligently to design ERP Phase 1 to use existing information to streamline implementation and minimize burden. After working through program development, FSA was able to design the system to largely use existing information that had been previously submitted by the producer, including the ability to use some data from the Risk Management Agency (RMA), which has not been readily available for FSA use in the past, so it took some time to develop this option. ERP Phase 1 will use pre-filled FSA-520, Emergency Relief Program (ERP) Phase 1 Application with data that is already on file with FSA or RMA, as a result of the producer previously receiving a NAP payment or a crop insurance indemnity under certain crop insurance policies. The crop, tree, bush, and vine loss information will be pre-filled on application forms. The producer must certify on the application that the loss was due, in whole or in part, to a qualifying disaster event and indicate that they agree to obtain crop insurance or NAP coverage for the next two available crop years, which is a requirement for payment eligibility. A contractor will print and mail the pre-filled ERP Phase 1 application forms to producers. As a result, a final version of the ERP Phase 1 application form must be provided to the contractor by May 13, 2022, in order to begin mailing applications by May 20, 2022.

The collection of information is needed to provide producers financial assistance as quickly as possible because of the losses they have suffered in 2021 and the continued additional expenses they have had to bear. If FSA had announced anything estimating the burden sooner, it would have preannounced the program; set expectations for payments sooner than would have been possible, and given the way the program development was streamlined, it would have most likely been an unrealistic burden estimate.