

DATE: December 23, 2022

TO: Brenda Aguilar  
Branch Chief

THROUGH: Ruth Brown  
USDA Information Collection Officer

FROM: Scott Marlow  
Deputy Administrator for Farm Programs

SUBJECT: Request for Emergency Approval for a New Information Collection  
Request—Emergency Relief Program (ERP) Phase 2

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 2. ERP Phase 2 will use funds authorized by the Extending Government Funding and Delivering Emergency Assistance Act, (Division B, Title I, Pub. L. 117-43) to assist producers who suffered crop losses 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 will announce ERP Phase 2 information collection request under the emergency through a final rule published in the *Federal Register*, and the program provisions will be published in 7 CFR part 760, subpart S. The ERP Phase 2 information collection request will be included in the OMB control number of 0560-0309 upon OMB approval.

ERP Phase 2 is intended to provide assistance for losses not covered under ERP Phase 1, such as losses of uninsured crops, shallow losses of insured crops that did not result in payment under a crop insurance policy, and crop quality losses. To calculate payments under ERP Phase 2, FSA will use a producer's total allowable gross revenue in order to streamline the application process by reducing the amount of information an applicant must provide, since applicants are not required to submit loss data separately for each eligible agricultural commodity. Producers will use a single application form to apply for both program years (2020 and 2021), further reducing the paperwork required for this program.

The collection of information is essential to the mission of FSA because it is part of the safety net to help producers continue farming despite suffering losses that are outside of their control. 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 losses due to qualifying disaster events, 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 changes that could extend the harm to consumers and others in the line of business (5 CFR 1320.13(a)(2)(i)).

In order to determine eligibility and calculate payments, FSA needs to collect the producer's allowable gross revenue for each program year in which they suffered a loss (2020 and 2021) and historic allowable gross revenue (for either 2018 or 2019, as elected by the applicant) on form FSA-521. Each applicant must also submit form FSA-522 to certify that they will comply with the requirement to purchase crop insurance of Noninsured Crop Disaster Assistance Program (NAP) coverage, as required by law. Applicants who did not have a full year of revenue in 2018 or 2019, expanded or decreased their operation size in 2020 or 2021, or began farming in 2020 or 2021 may also use form FSA-521A, Emergency Relief Program Phase 2 Allowable Revenue Worksheet, to adjust their historic allowable gross revenue for payment calculation purposes.

Applicants must also submit the following forms if applicable and if not previously filed with FSA: CCC-860, Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification; CCC-901, Member Information for Legal Entities; CCC-902, Farm Operating Plan; AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification; AD-2047, Customer Data Worksheet; and FSA-510, Request for An Exception to the \$125,000 Payment Limitation for Certain Programs.

If there are any questions or concerns, please call Deirdre Holder at 202-205-5851 or Mary Ann Ball.