expression), sexual orientation, disability, age, marital status, family or 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.

Individuals who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone). 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 *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

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Zach Ducheneaux,

Administrator, Farm Service Agency.

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2023–00015]

Notice of Funds Availability; 2021 Emergency Livestock Relief Program (ELRP) Phase 2

AGENCY: Farm Service Agency, USDA.

ACTION: Notification of funding availability.

SUMMARY: The Farm Service Agency (FSA) is issuing this notice announcing ELRP Phase 2. This document provides the eligibility requirements and payment calculation for the second phase of ELRP assistance. ELRP Phase 2 will provide assistance to eligible livestock producers for the loss of the value of winter forage from the deterioration of grazing cover due to a qualifying drought or wildfire during the 2021 normal grazing period, which has been exacerbated by a continued lack of precipitation. This document also makes a correction and amendment to ELRP Phase 1.

DATES: *Funding availability:* Implementation will begin September 27, 2023.

FOR FURTHER INFORMATION CONTACT: Kathy Sayers, telephone: (202) 720–7649; email: *Kathy.Sayers@usda.gov.* Individuals with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice) or (844) 433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

The Extending Government Funding and Delivering Emergency Assistance Act, (Division B, Title I, Pub. L. 117–43) provides $10 billion for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2020 and 2021, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of droughts, wildfires, hurricanes, floods, derechos, excessive heat, winter storms, freeze, including a polar vortex, smoke exposure, quality losses of crops, and excessive moisture occurring in calendar years 2020 and 2021. From the $10 billion, the Secretary of Agriculture is to use $750 million to assist producers of livestock for losses incurred during calendar year 2021 due to qualifying droughts or wildfires. The livestock producers who suffered losses due to drought are eligible for assistance if any 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 applicable year.

On April 4, 2022, FSA announced that assistance for livestock producers would be provided through ELRP (87 FR 19465–19470).[1] ELRP Phase 1 paid for a portion of eligible producers' increased supplemental feed costs in 2021 based on the number of animal units (AU), limited by available grazing acreage, in eligible drought counties. In order to deliver this assistance quickly, FSA used certain 2021 Livestock Forage Disaster Program (LFP) data and a percentage of the payment made through LFP applications as a proxy for these increased supplemental feed costs to eliminate the requirement for producers to resubmit information for ELRP Phase 1.

To stay within the available funding, ELRP Phase 1 payments were calculated at 90 percent of the gross LFP calculated payment for underserved farmers and ranchers and 75 percent of the gross LFP calculated payment for all other producers.[2]

This document provides the eligibility requirements and payment calculation for ELRP Phase 2 assistance. It also corrects an error in the ELRP Phase 1 provisions related to payment eligibility and amends ELRP Phase 1 to be consistent with LFP and ELRP Phase 2.

ELRP Phase 2

For each eligible livestock producer who previously received an ELRP Phase 1 payment, FSA will issue an ELRP Phase 2 payment to assist with losses in the value of winter forage from the deterioration of grazing cover due to a qualifying drought or wildfire during the 2021 normal grazing period, which has been exacerbated by the continued lack of precipitation, using the ELRP Phase 1 payment as a proxy to calculate those losses. ELRP Phase 2 assistance is subject to the same ELRP payment limitation provided in the previous notice of funds availability. Because FSA is using LFP and ELRP Phase 1 information to calculate a producer's ELRP Phase 2 payment and determine eligibility due to a qualifying drought or wildfire during the 2021 normal grazing period, no action is required for eligible

[1] In addition, a clarification to the notice of funds availability for ELRP Phase 1 was published on August 18, 2022 (87 FR 50828–50830).

[2] "Underserved farmer or rancher" means a beginning farmer or rancher, limited resource farmer or rancher, socially disadvantaged farmer or rancher, or veteran farmer or rancher. FSA calculates payments based on a higher payment factor for underserved farmers and ranchers (or specific groups included in that term) in several programs, such as Emergency Conservation Program; Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program; and the Tree Assistance Program. FSA has also used higher payment factors for these producers in several recently announced programs: the Food Safety Certification for Specialty Crops Program, the Organic and Transitional Education and Certification Program, Emergency Relief Program, and Pandemic Assistance Revenue Program. In addition, the Noninsured Crop Disaster Assistance Program provides a reduced service fee and premium for underserved farmers and ranchers. This approach supports the equitable administration of FSA programs, as underserved farmers and ranchers are more likely to lack financial reserves and access to capital that would allow them to cope with losses due to unexpected events outside of their control.

producers to receive ELRP Phase 2 payments.

For eligible producers, ELRP Phase 2 will provide assistance for a portion of the loss in value of winter grazing in 2021 based on the Phase 1 payment which used the number of AU, limited by available grazing acreage, in eligible drought and wildfire counties. In order to deliver this assistance quickly, FSA is using the ELRP Phase 1 payment calculation data as a proxy to issue an additional payment equal to 20 percent of the ELRP Phase 1 payment to pay for a percentage (44 percent or 52 percent) of the estimated losses in the value of winter forage to eliminate the requirement for producers to resubmit information for ELRP Phase 2.

According to the US Drought Monitor, more than one-third of the country was categorically in a ''D2 Severe'' to ''D4 Exceptional'' drought throughout the entire calendar year 2021. Extreme drought predominately affected areas highly concentrated with rangeland needed for livestock production, therefore drought and wildfire caused economic hardship on producers that were reliant on rangeland, requiring them to purchase supplemental feed at elevated prices to sustain production throughout 2021 and not isolated to during the normal grazing periods.

For eligible producers, ELRP Phase 1 compensated 57 to 69 percent of the calculated increased supplemental feed costs. Due to the excessive and expansive drought and wildfires in 2021, these livestock participants suffered extreme grazing losses that were not concentrated only to the normal grazing periods which directly impacted winter grazing. According to USDA's September 28, 2021, Weekly Weather and Crop Bulletin (see *https://www.fsa.usda.gov/programs-and-services/emergency-relief/index*), ''on August 29, rangeland and pastures were rated more than one-half very poor to poor in every state along and northwest of a line from California to Minnesota,'' that is generally the same area that was determined eligible for 2021 LFP and ELRP Phase 1. According to the report, pasture and range conditions for the week ending September 25, 2021, for the states that triggered for LFP in 2021 and received ELRP Phase 1 assistance, rated 46 percent poor to very poor conditions going into the winter grazing months. The weekly weather data in the bulletin indicated the percentage of normal precipitation at that time in those areas was 79.4 percent, which results as a direct indicator of a 20.6 percent negative impact to winter forage availability beginning in October 2021. LFP calculated the monthly value of forage in 2021, which based on corn prices was $31.18 per AU per month. A 20.6 percent decrease to normal precipitation equates to a $6.42 impact ($31.18 x 20.6 percent) per AU per month.

An additional factor that contributed to the lack of winter grazing availability during the 2021 drought was the lack of optimal grazing use. Recommended grazing use rates or percentages commonly used by the Natural Resource Conservation Service and university extension services provide that a grazing plan should allow for vigorous plant re-growth following a period of grazing and never have more than 50 percent use during the major growing season, and not more than 65 percent use during the dormant season or slowed growth period to maintain or improve range ecological condition and rangeland health, reduce soil erosion, as well as improve livestock performance. The drought and wildfire impact to the losses to winter grazing were not considered when developing ELRP Phase 1 but have been determined to be significant and, after considering funding limitations, FSA will compensate for the estimated impact of winter forage availability on eligible livestock producers at 52 percent and 44 percent for underserved farmers and ranchers and for all other farmers and ranchers, respectively.

Therefore, for eligible producers, the ELRP Phase 2 payment will be equal to 20 percent of the 2021 gross ELRP Phase 1 payment to compensate for the loss of winter grazing directly affected by the drought and wildfire conditions during the normal grazing period that continued to be exacerbated by conditions in the final quarter of 2021, which was not compensated by LFP or ELRP Phase 1. The payment per AU per month is calculated as follows:

- 20 percent of $16.84 = $3.37 (equivalent to 52 percent of the calculated winter grazing loss per month per AU based on percentage of normal precipitation as of October 1, 2021) for underserved farmers and ranchers, and
- 20 percent of $14.03 = $2.81 (equivalent to 44 percent of the calculated winter grazing loss per month per AU based on percentage of normal precipitation as of October 1, 2021) for all other farmers and ranchers.

TABLE 1—REVIEW OF 2021 ELRP PHASE 1 CALCULATED ASSISTANCE

ELRP Phase 1 assistance for increased supplement feed costs			
2021 LFP monthly value of forage	2021 LFP payment rate—60% per month (max 5 months) *	2021 ELRP Phase 1 payment percentage	Gross 2021 ELRP Phase 1 calculated benefit per month per eligible AU
$31.18	$18.71	75 90	$14.03 16.84

TABLE 2—2021 ELRP PHASE 2 CALCULATED ASSISTANCE

ELRP Phase 2 assistance for winter grazing losses in relation to % of normal precipitation on October 1, 2021				
Gross 2021 ELRP Phase 2 calculated benefit (20% of Phase 1 payment) per month per eligible AU	Oct 1% of normal precipitation	Result of % impact to winter grazing beginning Oct 1	$ Impact to winter grazing per month per AU on Oct 1 ($31.18 × 20.6%)	% 2021 ELRP Phase 2 assistance coverage of winter grazing loss per month per eligible AU
$2.81	79.4	20.6	$6.42	44

TABLE 2—2021 ELRP PHASE 2 CALCULATED ASSISTANCE—Continued

ELRP Phase 2 assistance for winter grazing losses in relation to % of normal precipitation on October 1, 2021				
Gross 2021 ELRP Phase 2 calculated benefit (20% of Phase 1 payment) per month per eligible AU	Oct 1% of normal precipitation	Result of % impact to winter grazing beginning Oct 1	$ Impact to winter grazing per month per AU on Oct 1 ($31.18 × 20.6%)	% 2021 ELRP Phase 2 assistance coverage of winter grazing loss per month per eligible AU
3.37				52

* The 2021 LFP payment rate may be adjusted according to LFP provisions in 7 CFR 1416.207 for mitigated livestock and restricted grazed AU due to a qualifying fire.

Because FSA is using ELRP Phase 1 payment information to generate a reasonable approximation for the loss covered by ELRP Phase 2, no action is required for eligible producers to receive these payments. If funding remains available after initial payments, an additional payment(s) may be issued, not to exceed 80 percent of the calculated winter grazing loss per AU per month based on the percentage of normal precipitation data as of October 1, 2021.[3]

Definitions

The definitions in 7 CFR parts 718, 1400, and § 1416.202 apply to ELRP Phase 2, except as otherwise provided in this document. The following definitions also apply.

Average adjusted gross farm income means the average of the person or legal entity's adjusted gross income derived from farming, ranching, and forestry operations for the 3 taxable years preceding the most immediately preceding complete taxable year.

(a) If the resulting average adjusted gross farm income derived from items 1 through 12 of the definition of income derived from farming, ranching and forestry operations is at least 66.66 percent of the average adjusted gross income of the person or legal entity, then the average adjusted gross farm income may also take into consideration income or benefits derived from the following:

(1) The sale of equipment to conduct farm, ranch, or forestry operations; and

(2) The provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

(b) The relevant tax years for the 2021 program year are 2017, 2018, and 2019.

Beginning farmer or rancher means a farmer or rancher who has not operated a farm or ranch for more than 10 years and who materially and substantially participates in the operation. For a legal entity to be considered a beginning farmer or rancher, at least 50 percent of the interest must be beginning farmers or ranchers.

Income derived from farming, ranching, and forestry operations means income of an individual or entity derived from:

(1) Production of crops, specialty crops, and unfinished raw forestry products;

(2) Production of livestock, aquaculture products used for food, honeybees, and products derived from livestock;

(3) Production of farm-based renewable energy;

(4) Selling (including the sale of easements and development rights) of farm, ranch, and forestry land, water or hunting rights, or environmental benefits;

(5) Rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;

(6) Processing, packing, storing, and transportation of farm, ranch, forestry commodities including renewable energy;

(7) Feeding, rearing, or finishing of livestock;

(8) Payments of benefits, including benefits from risk management practices, crop insurance indemnities, and catastrophic risk protection plans;

(9) Sale of land that has been used for agricultural purposes;

(10) Payments and benefits authorized under any program made available and applicable to payment eligibility and payment limitation rules;

(11) Income reported on Internal Revenue Service (IRS) Schedule F or other schedule used by the person or legal entity to report income from such operations to the IRS;

(12) Wages or dividends received from a closely held corporation, and Interest Charge Domestic International Sales Corporation (IC–DISC) or legal entity comprised entirely of family members when more than 50 percent of the legal entity's gross receipts for each tax year are derived from farming, ranching, or forestry activities as defined in this part; and

(13) Any other activity related to farming, ranching, and forestry, as determined by the Deputy Administrator for Farm Programs (Deputy Administrator).

LFP means the Livestock Forage Disaster Program under section 1501 of the Agricultural Act of 2014 (7 U.S.C. 9081) and 7 CFR part 1416, subpart C.

Limited resource farmer or rancher means a farmer or rancher who is both of the following:

(1) A person whose direct or indirect gross farm sales did not exceed $179,000 (the amount applicable to the 2021 program year) in each of the 2018 and 2019 calendar years; and

(2) A person whose total household income was at or below the national poverty level for a family of four in each of the same two previous years referenced in paragraph (1) of this definition. Limited resource farmer or rancher status can be determined using a website available through the Limited Resource Farmer and Rancher Online Self Determination Tool through National Resources and Conservation Service at *https://lrftool.sc.egov.usda.gov.*

For an entity to be considered a limited resource farmer or rancher, all members who hold an ownership interest in the entity must meet the criteria in paragraphs (1) and (2) of this definition.

Ownership interest means to have either a legal ownership interest or a beneficial ownership interest in a legal entity. For the purposes of administering ELRP, a person or legal entity that owns a share or stock in a legal entity that is a corporation, limited liability company, limited partnership, or similar type entity where members hold a legal ownership interest and shares in the profits or losses of such entity is considered to have an ownership interest in such legal entity. A person or legal entity that is a

[3] FSA is using an 80 percent threshold similar to the Coronavirus Food Assistance Program 2 (also known as CFAP 2) which provided pandemic assistance payments to livestock contract growers to cover not more than 80 percent of revenue losses.

beneficiary of a trust or heir of an estate who benefits from the profits or losses of such entity is considered to have a beneficial ownership interest in such legal entity.

Socially disadvantaged farmer or rancher means a farmer or rancher who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. For entities, at least 50 percent of the ownership interest must be held by individuals who are members of such a group. Socially disadvantaged groups include the following and no others unless approved in writing by the Deputy Administrator:

(1) American Indians or Alaskan Natives;

(2) Asians or Asian-Americans;

(3) Blacks or African Americans;

(4) Hispanics or Hispanic Americans;

(5) Native Hawaiians or other Pacific Islanders; and

(6) Women.

Underserved farmer or rancher means a beginning farmer or rancher, limited resource farmer or rancher, socially disadvantaged farmer or rancher, or veteran farmer or rancher.

Veteran farmer or rancher means a farmer or rancher who has served in the Armed Forces (as defined in 38 U.S.C. 101(10)) [4] and:

(1) Has not operated a farm or ranch for more than 10 years; or

(2) Has obtained status as a veteran (as defined in 38 U.S.C. 101(2)) [5] during the most recent 10-year period.

For an entity to be considered a veteran farmer or rancher, at least 50 percent of the ownership interest must be held by members who have served in the Armed Forces and meet the criteria in paragraph (1) or (2) of this definition.

Wildfire for ELRP Phase 2 means fire as used in 7 CFR part 1416, subpart C.

Eligible Livestock Producers

Eligible livestock producers for ELRP Phase 2 are producers with an approved 2021 LFP application who received an ELRP Phase 1 payment. For ELRP Phase 2, the eligibility criteria applicable to LFP (7 CFR part 1416, subparts A and C) also applies, excluding the LFP average adjusted gross income (AGI) limitation. FSA will use livestock inventories, forage acreage, restricted AU and grazing days due to fire, and drought intensity levels already reported to FSA for the 2021 Livestock Forage Disaster Program Application [6] (form number CCC–853), and the ELRP Phase 1 payment to determine eligibility and calculate a ELRP Phase 2 payment. Eligible livestock producers are not required to submit an application for ELRP Phase 2; however, if not already on file, they must have the following additional forms on file with FSA within 60-days of ELRP Phase 2 deadline announced by the Deputy Administrator to be eligible to receive a payment:

- Form AD–2047, Customer Data Worksheet;
- Form CCC–902, Farm Operating Plan for an individual or legal entity as provided in 7 CFR part 1400;
- Form CCC–901, Member Information for Legal Entities (if applicable); and
- A highly erodible land conservation (sometimes referred to as HELC) and wetland conservation certification as provided in 7 CFR part 12 (form AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification) for the ELRP Phase 2 producer and applicable affiliates.

For a producer to be eligible for a payment based on the higher payment rate for eligible underserved farmers or ranchers or increased payment limitation as described below, the following must be submitted within 60-days of the ELRP Phase 2 deadline announced by the Deputy Administrator:

- Form CCC–860, Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification, applicable for the 2021 program year; [7] or
- FSA–510, Request for an Exception to the $125,000 Payment Limitation for Certain Programs, accompanied by a certification from a certified public accountant or attorney as to that person or legal entity's certification, for a legal entity and all members of that entity.

Payment Calculation

The ELRP Phase 2 payment will be equal to the eligible livestock producer's gross 2021 ELRP Phase 1 payment [8] multiplied by 20 percent. The same percentage will be applied to underserved farmers and ranchers and all other producers. If funding remains available after initial payments, an additional payment(s) may be issued, not to exceed 80 percent of the calculated winter grazing loss per AU per month based on the percentage of normal precipitation data as of October 1, 2021.

For example, a livestock producer's gross 2021 ELRP Phase 1 calculated payment of $10,000 is multiplied by 20 percent, resulting in an ELRP Phase 2 payment of $2,000. This ELRP Phase 2 payment is intended to represent a reasonable approximation of 44 to 52 percent of the calculated winter grazing loss per AU per month based on the percentage of normal precipitation data as of October 1, 2021.

FSA will issue ELRP Phase 2 payments as 2021 ELRP Phase 1 payments are processed and approved. If a producer files the CCC–860 Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification or FSA–510 form and the accompanying certification by the deadline announced by the Deputy Administrator but after their ELRP Phase 2 payment is issued, FSA will recalculate the ELRP Phase 1 and Phase 2 payment and issue the additional calculated amount as applicable until the ELRP deadline announced by the Deputy Administrator.

Payment Limitation

The payment limitation for ELRP is determined by the person's or legal entity's average adjusted gross farm income (as defined above). Specifically, a person or legal entity, other than a joint venture or general partnership, cannot receive, directly or indirectly, more than $125,000 in payments under ELRP if their average adjusted gross farm income is less than 75 percent of their average AGI for tax years 2017, 2018, and 2019. If at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry related activities and the participant provides the required certification and documentation, as discussed below, the person or legal

[4] The term ''Armed Forces'' means the United States Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard, including the reserve components.

[5] The term ''veteran'' means a person who served in the active military, naval, air, or space service, and who was discharged or released under conditions other than dishonorable.

[6] As provided in 7 CFR 1416.206 and publicized by FSA, the LFP application deadline for the 2021 program year was January 31, 2022.

[7] A producer who has filed CCC–860 certifying their status as a socially disadvantaged, beginning, or veteran farmer or rancher for a prior program year is not required to submit a subsequent certification of their status for the 2021 program year because a producer's status as socially disadvantaged would not change in different years, and their certification as a beginning or veteran farmer or rancher includes the relevant date needed to determine for what programs years the status would apply. Because a producer's status as a limited resource farmer or rancher may change annually depending on the producer's direct and indirect gross farm sales, those producers must submit CCC–860 for each applicable program year.

[8] The gross ELRP Phase 1 calculated payment is the amount calculated according to the ELRP Phase 1 NOFA, prior to any payment reductions for reasons including, but not limited to, sequestration, payment limitation, and the applicant or member of an applicant that is an entity exceeding the average AGI limitation.

entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $250,000 in ELRP payments.

To receive more than $125,000 in ELRP payments, producers must submit form FSA–510, accompanied by a certification from a certified public accountant or attorney as to that person or legal entity's certification. If a producer requesting the $250,000 payment limitation is a legal entity, all members of that entity must also complete FSA–510 and provide the required certification according to the direct attribution provisions in 7 CFR 1400.105, ''Attribution of Payments.'' If a legal entity would be eligible for the $250,000 payment limitation based on the legal entity's average adjusted gross farm income but a member of that legal entity either does not complete an FSA–510 and provide the required certification or is not eligible for the $250,000 payment limitation, the payment to the legal entity will be reduced for the limitation applicable to the share of the ELRP payment attributed to that member.

A payment made to a legal entity will be attributed to those members who have a direct or indirect ownership interest in the legal entity unless the payment of the legal entity has been reduced by the proportionate ownership interest of the member due to that member's ineligibility.

Attribution of payments made to legal entities will be tracked through four levels of ownership in legal entities as follows:

- *First level of ownership:* Any payment made to a legal entity that is owned in whole or in part by a person will be attributed to the person in an amount that represents the direct ownership interest in the first-level or payment legal entity;
- *Second level of ownership:* Any payment made to a first-level legal entity that is owned in whole or in part by another legal entity (referred to as a second-level legal entity) will be attributed to the second-level legal entity in proportion to the ownership of the second-level legal entity in the first-level legal entity; if the second-level legal entity is owned in whole or in part by a person, the amount of the payment made to the first-level legal entity will be attributed to the person in the amount that represents the indirect ownership in the first-level legal entity by the person;
- *Third and fourth levels of ownership:* Except as provided in the second-level of ownership bullet above and in the fourth-level of ownership bullet below, any payments made to a legal entity at the third and fourth levels of ownership will be attributed in the same manner as specified in the second level of ownership bullet above; and
- *Fourth level of ownership:* If the fourth level of ownership is that of a legal entity and not that of a person, a reduction in payment will be applied to the first-level or payment legal entity in the amount that represents the indirect ownership in the first-level or payment legal entity by the fourth-level legal entity.

Payments made directly or indirectly to a person who is a minor child will not be combined with the earnings of the minor's parent or legal guardian.

A producer that is a legal entity must provide the names, addresses, ownership share, and valid taxpayer identification numbers of the members holding an ownership interest in the legal entity. Payments to a legal entity will be reduced in proportion to a member's ownership share when a valid taxpayer identification number for a person or legal entity that holds a direct or indirect ownership interest of less than 10 percent, at the first through fourth levels of ownership in the business structure, is not provided to FSA. A legal entity is not eligible to receive ELRP payments when a valid taxpayer identification number for a person or legal entity that holds a direct or indirect ownership interest of 10 percent or more, at the first through fourth levels of ownership in the business structure, is not provided to FSA.

If an individual or legal entity is not eligible to receive ELRP payments due to the individual or legal entity failing to satisfy payment eligibility provisions, the payment made either directly or indirectly to the individual or legal entity will be reduced to zero. The amount of the reduction for the direct payment to the producer will be commensurate with the direct or indirect ownership interest of the ineligible individual or ineligible legal entity. Like other programs administered by FSA, payments made to an 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), will not be subject to payment limitation.

Provisions Requiring Refund to FSA

If any ELRP payment resulted from erroneous information reported by the producer or if the producer's 2021 LFP payment is recalculated after the ELRP Phase 1 payment or ELRP Phase 2 payment is issued, the ELRP payment will be recalculated, and the producer must refund any excess payment to FSA. This includes interest to be calculated from the date of the disbursement to the producer. If FSA determines that the producer intentionally misrepresented information used to determine the producer's ELRP payment amount, the application will be disapproved and the producer must refund the full payment to FSA with interest from the date of disbursement. Any required refunds must be resolved in accordance with debt settlement regulations in 7 CFR part 3.

General Provisions

General requirements that apply to other FSA-administered commodity programs also apply to ELRP, including compliance with the provisions of 7 CFR part 12, ''Highly Erodible Land and Wetland Conservation,'' and the provisions of 7 CFR 718.6, which address ineligibility for benefits for offenses involving controlled substances. Appeal regulations in 7 CFR parts 11 and 780 and equitable relief and finality provisions in 7 CFR part 718, subpart D, apply to determinations under ELRP. The determination of matters of general applicability that are not in response to, or result from, an individual set of facts are not matters that can be appealed. Such matters of general applicability include, but are not limited to, the ELRP eligibility criteria and payment calculation.

Participants are required to retain documentation in support of their application for 3 years after the date of approval. Participants receiving ELRP payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and to allow representatives to make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

The Deputy Administrator has the discretion and authority to waive or modify filing deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of ELRP. Although producers have a right to a decision on whether they filed applications by the deadline or not, producers have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator's refusal to exercise discretion to consider the request will not be considered an adverse decision and is, by itself, not appealable.

Any payment under ELRP will be made without regard to questions of title under State law and without regard to any claim or lien. The regulations governing offsets in 7 CFR part 3 apply to ELRP payments.

In either applying for or participating in ELRP, or both, the producer is subject to laws against perjury and any penalties and prosecution resulting therefrom, with such 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 ELRP, 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 outside the United States.

For the purposes of the effect of a lien on eligibility for Federal programs (28 U.S.C. 3201(e)), USDA waives the restriction on receipt of funds under ELRP but only as to beneficiaries who, as a condition of the waiver, agree to apply the ELRP payments to reduce the amount of the judgment lien.

In addition to any other Federal laws that apply to ELRP, the following laws apply: 15 U.S.C. 714; and 18 U.S.C. 286, 287, 371, and 1001.

ELRP Phase 1

FSA announced ELRP Phase 1 in a NOFA published on April 4, 2022 (87 FR 19465–19470). This document corrects an error in that NOFA and amends ELRP Phase 1 related to the requirement to provide the names, addresses, ownership share, and valid taxpayer identification numbers of the members holding an ownership interest in a legal entity. The ELRP Phase 1 NOFA provided that ''the eligibility criteria applicable to LFP . . . also applies to ELRP Phase 1,'' which would include notification of interest provisions applicable to LFP.

LFP is subject to the payment eligibility provisions of 7 CFR part 1400, including the notification of interest requirements. When the ELRP Phase 1 NOFA was published, the provisions in § 1400.107 required a legal entity to provide the names, addresses, ownership share, and valid taxpayer identification numbers of the members holding an ownership interest in order to receive any LFP payment. This is how FSA has been implementing ELRP Phase 1, consistent with LFP prior to January 2023, despite certain conflicting language in the ELRP Phase 1 NOFA that appears to permit partial ELRP payments to be issued after reduction in proportion to a member's share if the required information was not provided to FSA.

On January 11, 2023, FSA published a final rule (88 FR 1862–1892) that removed § 1400.107 and added a new § 1400.10, which specified that for certain FSA programs, including LFP, payments to a legal entity will be reduced in proportion to a member's ownership share when a valid taxpayer identification number for a person or legal entity that holds a direct or indirect ownership interest of less than 10 percent, at or above the fourth level of ownership in the business structure, is not provided to USDA. The provisions in § 1400.10 also specify that a legal entity will not be eligible to receive payment when a valid taxpayer identification number for a person or legal entity that holds a direct or indirect ownership interest of 10 percent or greater at, or above the fourth level of ownership in the business structure, is not provided to USDA. This change was made retroactive to the 2020 program year for LFP.

This document amends ELRP Phase 1 to be consistent with these provisions of § 1400.10 that currently apply to LFP for the 2021 program year, and which also apply to ELRP Phase 2.

Paperwork Reduction Act Requirements

In compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35), the information collection request for ELRP Phase 2 has been approved by OMB under the control number 0503–0028. FSA will collect the information from the livestock producer to qualify for the payment to assist with the loss of winter grazing. This NOFA is the one-time announcement of the new ELRP Phase 2 federal financial assistance. For the ELRP Phase 1 correction, there is no new information collection required.

Environmental Review

The environmental impacts have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500 through 1508), and the FSA regulation for compliance with NEPA (7 CFR part 799).

As previously stated, ELRP Phase 2 is providing payments to eligible livestock producers for loss of the value of winter forage from the deterioration of grazing cover due to a qualifying drought or wildfire during the 2021 normal grazing period, which has been exacerbated by a continued lack of precipitation. The limited discretionary aspects of ELRP do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the FSA categorical exclusions specified in § 799.31(b)(6)(iv) that applies to individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) that applies to safety net programs.

No Extraordinary Circumstances exist under § 799.33. As such, the implementation of ELRP and the participation in ELRP do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

Federal Assistance Programs

The title and number of the Federal assistance program, as found in the Assistance Listing [9] (formerly referred to as the Catalog of Federal Domestic Assistance), to which this document applies is 10.148—Emergency Livestock Relief Program.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions 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 or 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.

[9] See *https://sam.gov/content/assistance-listings.*

Individuals who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or the USDA TARGET Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone). 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 *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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Zach Ducheneaux,

Administrator, Farm Service Agency.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2023–0021]

Notice of Request to Renew an Approved Information Collection: Egg Products Hazard Analysis and Critical Control Point and Sanitation Standard Operating Procedures

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to request renewal of the approved information collection regarding egg products Hazard Analysis and Critical Control Point (HACCP) and Sanitation Standard Operating Procedures (Sanitation SOPs). There are no changes to the information collection. The approval for this information collection will expire on January 31, 2024.

DATES: Submit comments on or before November 27, 2023.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- Mail: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- Hand- or courier-delivered submittals: Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2023–0021. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 937–4272 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 937–4272.

SUPPLEMENTARY INFORMATION: *Title:* Egg Products Hazard Analysis and Critical Control Point and Sanitation Standard Operating Procedures

OMB Number: 0583–0172.

Expiration Date of Approval: January 31, 2024.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). This statute mandates that FSIS protect the public by verifying that egg products are safe, wholesome, and properly labeled and packaged.

FSIS is requesting renewal of the approved information collection regarding egg products HACCP and Sanitation SOPs. There are no changes to the information collection. The approval for this information collection will expire on January 31, 2024.

FSIS requires official plants to develop and maintain HACCP plans and Sanitation SOPs, as well as various transaction records. The plant maintains on file the name and a brief resume of the HACCP trained individuals who participate in the hazard analysis and subsequent development of the HACCP plans. Plants develop written HACCP plans that include: identification of hazards reasonably likely to occur in the production process; identification and description of the critical control point (CCP) for each identified hazard; specification of the critical limit which may not be exceeded at the CCP, and, if appropriate, a target limit; description of the monitoring procedure or device to be used; description of the corrective action to be taken if the limit is exceeded; description of the records which would be generated and maintained regarding this CCP; and description of the facility verification activities and the frequency at which they are to be conducted. The adequacy of a plant's HACCP plan must be reassessed at least annually and whenever changes occur that could affect the hazard analysis or alter the HACCP plan.

Each processor is also required to develop and maintain a Sanitation SOP. The Sanitation SOP specifies the cleaning and sanitizing procedures for all equipment and facilities involved in the production of every product. As part of the Sanitation SOP, a plant employee records results of daily sanitation checks at the frequencies stated in the Sanitation SOP. The burden of documenting the adherence to the Sanitation SOP is based on three factors: Recording, reviewing, and storage. Recording encompasses conducting and inscribing the finding from an observation and filing of the document produced.

FSIS has made the following estimates based upon an information collection assessment:

Respondents: Official egg products plants.

Estimated No. of Respondents: 132.

Estimated No. of Responses: 138,596.

Estimated Total Annual Burden on Respondents: 76,280 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection