

OPM's consideration of these alternatives is addressed in the discussion of comments. See, e.g., the preceding discussion of comments 15, 23, and 26.

Regulatory Compliance

A. Regulatory Flexibility Act

The Director of OPM certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

B. Regulatory Review

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rulemaking does not reach that threshold but has otherwise been designated a "significant regulatory action" under section 3(f) of Executive Order 12866. This final rule is not an Executive Order 14192 regulatory action because it does not impose any more than de minimis regulatory costs.

C. Federalism

This rulemaking will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Civil Justice Reform

This rulemaking meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995

dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

F. Congressional Review Act

The Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs has determined this rule does not meet the criteria listed in 5 U.S.C. 804(2). In addition, this is a rule related to agency management or personnel and agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties and thus does not come within the meaning of the term "rule" as used in the Congressional Review Act. See 5 U.S.C. 804(3)(B), (C). Therefore, the reporting requirements of 5 U.S.C. 801 do not apply.

G. Paperwork Reduction Act

This regulatory action will not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 430

Decorations, Government employees. Office of Personnel Management.

Stephen Hickman,
Federal Register Liaison.

Accordingly, for the reasons stated in the preamble, OPM amends 5 CFR part 430 as follows:

PART 430—PERFORMANCE MANAGEMENT

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 5 U.S.C. chapter 43 and 5307(d).

Subpart C—Managing Senior Executive Performance

■ 2. Amend § 430.305 by revising paragraph (a)(5) and adding paragraph (d) to read as follows:

§ 430.305 System standards for SES performance management systems.

(a) * * *

(5) Derive an annual summary rating through a mathematical method that ensures executives' performance aligns with level descriptors contained in performance standards that clearly differentiate levels above fully successful;

* * * * *

(d) OPM may establish, and refine as needed, a forced distribution of SES rating levels which agencies must apply when rating SES members, except that noncareer SES members may be excluded from such forced distribution requirements, as determined by OPM.

- 3. Amend § 430.308 by:
 - a. Revising paragraph (d)(6);
 - b. Removing paragraph (d)(7); and
 - c. Redesignating paragraph (d)(8) as (d)(7).

The revision reads as follows:

§ 430.308 Appraising performance.

* * * * *

(d) * * *

(6) The effectiveness, productivity, and performance results of the employees for whom the senior executive is responsible; and

* * * * *

- 4. Amend § 430.311 by revising paragraph (a)(1) to read as follows:

§ 430.311 Performance Review Boards (PRBs).

* * * * *

(a) * * *

(1) Each PRB must have three or more members who are appointed by the agency head, or by another official or group acting on behalf of the agency head. Agency heads are encouraged to choose individuals for each PRB committed to applying the SES Performance Appraisal System and Performance Plan and the requirements therein and promoting and assuring an SES of the highest caliber.

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID FSA-2025-0005]

RIN 0560-AI72

Emergency Livestock Relief Programs

AGENCY: Farm Service Agency, U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is issuing this rule to implement the Emergency Livestock Relief Program (ELRP) 2023 and 2024 Flood and Wildfire (FW), which provides payments to eligible livestock producers for losses as a result of increased supplemental feed costs due to a qualifying flood or qualifying wildfire.

(excluding wildfires on federally managed land) in calendar years 2023 and 2024. This rule specifies the administrative provisions, eligibility requirements, and payment calculations for ELRP 2023 and 2024 FW. This rule also amends the regulation for ELRP 2023 and 2024, which provides assistance for qualifying drought and qualifying wildfire on federally managed land, to specify that it has a combined payment limitation with ELRP 2023 and 2024 FW and to provide program deadlines.

DATES: This rule is effective on September 15, 2025. The deadline to submit an application for ELRP 2023 and 2024 FW is October 31, 2025. The deadline to submit all required eligibility forms for ELRP 2023 and 2024 and ELRP 2023 and 2024 FW is November 2, 2026.

FOR FURTHER INFORMATION CONTACT:

Kathy Sayers; telephone: (202) 720-6870; 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 and text telephone (TTY mode)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION:

Background

Title I of the Disaster Relief Supplemental Appropriations Act, 2025 (Division B of the American Relief Act, 2025; Public Law 118-158; referred to as “the Act” in this document) provides “\$30,780,000,000, to remain available until expended, for necessary expenses related to losses of revenue, quality or production of crops (including milk, on-farm stored commodities, crops prevented from planting, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of droughts, wildfires, hurricanes, floods, derechos, excessive heat, tornadoes, winter storms, freeze, including a polar vortex, smoke exposure, and excessive moisture occurring in calendar years 2023 and 2024 under such terms and conditions as determined by the Secretary of Agriculture . . .”. From that amount, the Act directs the Secretary of Agriculture to use up to \$2 billion to provide assistance to livestock producers, as determined by the Secretary, for losses incurred during calendar years 2023 and 2024 due to drought, wildfires, or floods.

On May 29, 2025, FSA announced ELRP 2023 and 2024, which provides approximately \$1 billion in assistance to

eligible livestock producers for losses due to qualifying drought and qualifying wildfire using producer data already on file with FSA through participation in the Livestock Forage Disaster Program (LFP) (90 FR 22614). Assistance for losses due to qualifying wildfires from ELRP 2023 and 2024 is limited to qualifying wildfires occurring on federally managed land. This rule announces ELRP 2023 and 2024 FW, which will use the approximate \$940 million in funding remaining of the \$2 billion authorized to assist eligible livestock producers who incurred losses as a result of increased supplemental feed costs due to a qualifying flood or qualifying wildfire in calendar years 2023 and 2024. ELRP 2023 and 2024 FW assistance for wildfires is available only on non-federally managed land, and this requirement is not applicable to qualifying floods.

Severe floods and wildfires in 2023 and 2024 disrupted feed availability and worsened forage conditions in major livestock-producing regions, particularly impacting the dairy and beef cattle sectors. These events, on both public and private land, strained local feed markets, increased supplemental feed costs for livestock producers, and reduced livestock productivity including milk production and livestock weaning weights. In 2023 and 2024, just under 11.5 million acres were affected by wildfires in the United States, according to the National Oceanic and Atmospheric Administration’s (NOAA’s) Annual Wildfires Reports.¹ In March 2024, five wildfires were contained in the Texas Panhandle, the largest cattle-producing region in the world. These wildfires resulted in approximately 1.1 million scorched acres, hundreds of destroyed structures, hundreds of miles of ruined fencing, and more than 7,000 dead cattle.² During July 2023 and continuing into 2024, heavy rains and flash floods swept across the nation, inundating large portions of the country, particularly in the Northeast, Southeast, and Midwest. California was severely impacted by floods in 2023 due to atmospheric rivers, while Hurricanes Helene and Milton caused widespread flash flooding in the Southeast in 2024. These

¹ See NOAA National Centers for Environmental Information, Monthly Wildfires Report for Annual 2023, available at <https://www.ncei.noaa.gov/access/monitoring/monthly-report/fire/202313>, and Monthly Wildfires Report for Annual 2024, available at <https://www.ncei.noaa.gov/access/monitoring/monthly-report/fire/202413>.

² NOAA, Assessing the U.S. Climate in March 2024, available at <https://www.ncei.noaa.gov/news/national-climate-202403>.

extreme weather events had widespread effects including:

- Disruptions to infrastructure (roads being impassable or washed out) and to local feed supply chains, causing delays and increased transportation costs to deliver feed products to livestock producers;

• Increased feed costs for livestock producers and difficulty in securing replacement feed due to reduced crop quality or outright crop failure; and

• Degraded livestock performance (including reduced production and lower weaning weights), especially among dairy cattle, as a result of low-quality feed and feed ration inconsistencies.³

Unlike losses due to drought and losses due to wildfire on federally managed land, which were covered under the LFP and the previous ELRP 2023 and 2024, the new ELRP 2023 and 2024 FW compensates eligible livestock producers for losses due to qualifying floods, and qualifying wildfires on non-federally managed lands, that LFP and other Federal programs do not cover.

ELRP 2023 and 2024 FW will compensate eligible livestock producers for the equivalent of 60 percent of:

- 1 month of the calculated monthly feed costs for the producer’s eligible covered livestock inventories for a qualifying wildfire; and
- 3 months of the calculated monthly feed costs for the producer’s eligible covered livestock inventories for a qualifying flood.

While both qualifying disaster events are significant, the 3-month time period used for calculating payments for a qualifying flood will address both short-term and long-term feed needs resulting from the impact a qualifying flood has to the agricultural landscape, including the likely delay associated with bringing the flood impacted land back into production for livestock forage or grazing needs. The 1-month time period used for calculating payments for a qualifying wildfire is intended to address immediate feed needs and short-term impacts to the affected acres impacted by the qualifying wildfire. While wildfire destroys existing cover present on the landscape, it does not typically require extensive rehabilitation to support the regeneration of grazing acres or forage production like that of flood affected acres. The monthly feed costs are calculated based on the kind, type, and weight class, if applicable, for the

³ See the ELRP 2023 and 2024 FW Cost Benefit Analysis (CBA). To obtain a copy of the ELRP 2023 and 2024 FW CBA, search by docket number FSA-2025-0005 using the search box on <https://www.regulations.gov>.

livestock at the time of the qualifying event using the same monthly feed cost calculation used for LFP.⁴ FSA's use of a standard monthly feed cost calculation, based on 1 month for qualifying wildfire or 3 months for qualifying flood, streamlines program delivery by minimizing the amount of information a producer must submit and reduces the burden on producers to produce records of supplemental feed costs during an application period that is months or years after the qualifying disaster events. This approach is similar to LFP, which provides assistance based on the occurrence and severity of drought as verified by the U.S. Drought Monitor.

FSA cannot determine eligible producers and payment amounts using producer data that is already on file as a result of participation in other programs; therefore, livestock producers will be required to submit an application for ELRP 2023 and 2024 FW. Although FSA was able to use data previously reported to FSA to streamline administration and identify program demand for ELRP 2023 and 2024, FSA is unable to determine the total number of eligible applicants and resulting program demand for ELRP 2023 and 2024 FW with existing data on file, and therefore requires eligible livestock producers to apply for assistance. Due to the need to evaluate program demand, FSA will not issue payments at the onset of the application period. Payments are expected to be factored because program demand is anticipated to exceed the amount of funding available.⁵

Producer Eligibility

To be eligible for ELRP 2023 and 2024 FW, a livestock producer must have owned, leased, purchased, entered into a contract to purchase, or was an eligible contract grower of eligible covered livestock on the beginning date of the qualifying disaster event; and suffered an eligible loss due to a qualifying disaster event, as described below. Eligible producers may receive payment for 1 or both years, and they may receive payments for multiple

⁴ Monthly feed costs are based on a feed grain equivalent that is calculated according to 7 CFR 1416.207, as specified in 7 U.S.C. 9081(c), which uses the higher of the national average corn price per bushel for the 12- or 24-month period immediately preceding March 1 of the calendar year. For 2023, the monthly value of forage resulted in an LFP payment rate of \$58.12 for 2023 and \$52.56 for 2024 per eligible one animal unit per month. See also Table 2.

⁵ See the ELRP 2023 and 2024 FW Cost Benefit Analysis (CBA). To obtain a copy of the ELRP 2023 and 2024 FW CBA, search by docket number FSA-2025-0005 using the search box on [https://www.regulations.gov/](https://www.regulations.gov).

qualifying disaster events, if applicable, not to exceed the equivalent of 3 months of assistance per producer, per physical location county of the qualifying disaster event, per program year.

Eligible livestock producers for ELRP 2023 and 2024 FW do not include livestock auction facilities, operations in the business of housing livestock on a day-to-day basis (including but not limited to preparing livestock for sale or export) or those whose business is to buy and sell livestock from various sources, only serving as an intermediary between livestock producers and buyers. As with LFP, livestock located in commercial feedlots or feedyards (livestock in the final stage of production before slaughter) are not eligible for ELRP 2023 and 2024 FW.

Forage quality is important at varying livestock development levels to both dairies and feedlots; however, forage serves a different purpose in dairy versus feedlot feed rations. Dairies rely on high quality forage for healthy rumen for optimizing milk production while forage needs for feedlots focus on fiber and calories for cattle growth. Cattle feeding operations have a broader opportunity to balance and alter their feed sources to meet energy needs (such as feed grains, silage, and earlage) and fiber needs (such as dry hay, cover crops, and sorghum silage) in their rations, versus dairies, which typically require high-quality alfalfa. By far the most important hay crop fed to dairy cattle in the United States is alfalfa. Alfalfa provides a significant amount of energy, which is essential for milk production and reproduction in dairy cows. Dairy utilization may account for 75 to 80 percent of the utilization of alfalfa in the major dairy States, such as California, Wisconsin, New York, Idaho, and New Mexico.⁶ Alfalfa is bulky and expensive to transport, so when a livestock producer's fields are impacted by disaster, it can become difficult or impossible to secure this critical feed.

Consistent with other disaster programs including ELRP, ELRP 2022, ELRP 2023 and 2024, the Emergency Relief Program (ERP), ERP 2022, 2017 Wildfire and Hurricane Indemnity Program (WHIP), and WHIP+, the average adjusted gross income (AGI) limitation is not applicable to ELRP 2023 and 2024 FW.

⁶ Higinbotham, G.E. et al., Chapter 17, "Alfalfa Utilization for Livestock," in *Irrigated Alfalfa Management in Mediterranean and Desert Zones*, edited by C.G. Summers and D.H. Putnam, University of California Agriculture and Natural Resources Publication 8303, 2008 (available at <http://alfalfa.ucdavis.edu/IrrigatedAlfalfa>).

Eligible Loss

Eligible losses for ELRP 2023 and 2024 FW are losses due to increased supplemental feed costs as a result of the qualifying disaster event that occurred in calendar year 2023 or 2024, if the eligible livestock producer, as of the beginning date of the qualifying disaster event, was an owner, operator, landlord, tenant, sharecropper, or eligible contract grower who shares in the risk of producing covered livestock and who is entitled to a share in the eligible covered livestock, physically located in the county affected by the qualifying disaster event, or that normally would have been physically located in that county in the absence of the qualifying disaster event, as described below.

Qualifying Disaster Event

Qualifying disaster events for ELRP 2023 and 2024 FW include qualifying floods and qualifying wildfires that occurred in calendar year 2023 or 2024. "Qualifying flood" means a severe and extreme flooding event that causes widespread destruction, significant property and crop damage, livestock loss and displacement, and major economic loss to infrastructure and the environment, typically overwhelming local flood defenses and response systems. "Qualifying wildfire" means an unplanned, unwanted wildfire burning in natural areas like forests, grasslands, or brushlands, on non-federally managed lands. These wildfires can be started by natural causes like lightning, or human activities, and they consume vegetation and spread based on environmental conditions. A qualifying wildfire does not include fires that were planned, intentional, or prescribed burns. Wildfires on federally managed lands are not included because they were covered under ELRP 2023 and 2024.

To streamline program delivery and reduce the burden on applicants, FSA has confirmed that qualifying floods and qualifying wildfires have occurred in many counties based on disaster designations (including Secretarial disaster designations, Presidential declarations, and FSA Administrator's physical loss notifications), weather data, and reported economic impacts. For losses in these affected counties, which have been approved by the Deputy Administrator, livestock producers are not required to submit supporting documentation of the qualifying disaster event. A list of counties approved by the Deputy Administrator is available in FSA county offices and at <https://>

www.fsa.usda.gov/resources/programs/emergency-livestock-relief-program-elrp.

For losses in counties that have not been approved by the Deputy Administrator, livestock producers must provide supporting documentation to substantiate that a qualifying flood or qualifying wildfire occurred in the county where their livestock were physically located, and eligibility is subject to the county committee's determination that the disaster event meets the specific criteria established for a qualifying flood or qualifying wildfire eligibility. Acceptable documentation includes but is not limited to: photographs that document the impact that a qualified disaster event had on the producer's livestock, showing damage to land and property; documentation that indicates economic losses, loss and displacement of livestock, and damage to infrastructure; insurance documentation; reports of a declared emergency area by local, State, or Federal authorities; any documentation that supports long term recovery needs such as debris removal or property or land repair; news articles; NOAA storm event database records; other FSA disaster program participation records; and any other documentation determined acceptable by the county committee.

Eligible Livestock

Eligible covered livestock, as of beginning date of the qualifying flood or qualifying wildfire, must:

- have been physically located in the county in which the qualifying flood or qualifying wildfire occurred; or
- have normally been physically located in the county in the absence of the qualifying disaster event on or after the disaster event; or were livestock physically relocated from the county due to the imminent threat of the qualifying flood or qualifying wildfire.

For example, a qualifying wildfire, according to the Administrator's Physical Loss Notification (APLN), occurred in Roberts County, Texas on March 8, 2024. "Livestock Producer A"

had a grazing lease for adult beef cattle in Roberts County beginning on January 1, 2024 for the calendar year, however, as a result of the threat of the Smokehouse Creek Fire in the neighboring county, "Livestock Producer A" made the management decision to move the livestock for safety purposes to another feeding facility in Sherman County on March 4, 2024, four days prior to the qualifying wildfire reaching Roberts County, and as a result incurred increased supplemental feed costs. "Livestock Producer A" would report on the ELP 2023 and 2024 FW application that the beginning date of the qualifying wildfire event in Roberts County occurred on March 8, 2024, and report the number of eligible covered livestock in inventory on March 8, 2024.

Categories of eligible covered livestock for ELP 2023 and 2024 FW are consistent with the kind, type, and weight class of eligible livestock for LFP⁷ and previous ELP programs (that is, livestock that receive 50 percent or more of their nutritional needs from forage). This includes weaned beef cattle, dairy cattle, beefalo, buffalo, bison, alpacas, deer, elk, emus, equine, goats, llamas, ostriches, reindeer, or sheep.

Eligible livestock producers must provide documentation to support the number of livestock in inventory, as of the beginning date of the qualifying disaster event as reported on FSA-970, at the time of application.

How To Apply

The application period begins on September 15, 2025. To be eligible for an ELP 2023 and 2024 FW payment, a livestock producer must submit the following by October 31, 2025, the ELP 2023 and 2024 FW application period deadline:

- FSA-970, Emergency Livestock Relief Program (ELP) 2023 and 2024 Flood and Wildfire (FW) Application;
- Supporting documentation of livestock inventories reported on FSA-970;
- Supporting documentation of the qualifying disaster events reported on

FSA-970, for a flood or wildfire in a county not approved by the Deputy Administrator as described above;

- Supporting documentation to establish or update FSA's farm records to support and verify the livestock producer's physical location of their livestock, if applicable; and
- Contract Grower Agreement, if applicable.

Applicants will submit 1 application for each program year, as applicable. Applicants must also submit the following forms to FSA by November 2, 2026, for each applicable program year to be eligible for payment:

- CCC-902, Farm Operating Plan, for an individual or legal entity as provided in 7 CFR part 1400;
- CCC-901, Member Information for Legal Entities, if applicable;
- AD-1026, Highly Erodible Land Conservation (HEL) and Wetland Conservation (WC) Certification, for the participant and applicable affiliates as provided in 7 CFR part 12; and
- 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 participants and members of legal entities to be eligible for the increased payment limitation of \$250,000, if applicable.

Payment Calculation

Certain livestock disaster programs, such as LFP and the Emergency Livestock Assistance Program (ELAP), have already established the cost to sustain livestock for 1 month based on 1 animal unit (AU). The industry standard for 1 AU is one mature, 1,000 pound cow with or without a calf. This is a measurement used to standardize the forage needs of different types of livestock. The AU conversion rates for all covered livestock, based on livestock kind, type, and weight class, are consistent with the conversion rates established for LFP.

TABLE 1—STANDARD AU CONVERSION CHART USED FOR LFP AND ELP PROGRAMS

Animal type	Animal unit
Dairy Cow or Bull	2.6
Beef, Buffalo, or Beefalo Adult Cow or Bull	1.00
Equine .....	.74
Dairy Cattle, Beef Cattle, Buffalo, or Beefalo 500 lbs. or more .....	.75
Dairy Cattle, Beef Cattle, Buffalo, or Beefalo less than 500 lbs .....	.50
Deer .....	.25
Sheep or Goats .....	.25

⁷ As provided in 7 CFR 1416.204(b) and publicized by FSA in the Livestock Forage Disaster

TABLE 1—STANDARD AU CONVERSION CHART USED FOR LFP AND ELRP PROGRAMS—Continued

Animal type	Animal unit
Reindeer .....	.22
Alpaca .....	.22
Llama .....	.36
Ostrich .....	.55
Emu .....	.51
Elk .....	.54

For ELRP 2023 and 2024 FW, eligible livestock producers will receive a payment for losses due to increased supplemental feed costs for qualifying disaster events using the same monthly

feed cost calculation used for LFP, equal to the amount of feed grain equivalent, as determined in 7 CFR 1416.207. ELRP 2023 and 2024 FW will compensate eligible livestock producers the

equivalent of 60 percent of 1 month of calculated monthly feed costs for a qualifying wildfire and 3 months for a qualifying flood.

TABLE 2—EXAMPLE OF FSA ESTABLISHED MONTHLY FEED COSTS FOR ADULT BEEF AND DAIRY CATTLE AND THE CORRESPONDING ELRP 2023 AND 2024 FW PAYMENT RATES

Program year	Livestock type and animal unit conversion	Monthly feed costs (as established for LFP)	ELRP 2023 and 2024 FW Wildfire Payment Rates per head (60 percent of 1 month of feed costs prior to payment factor)	ELRP 2023 and 2024 FW Flood Payment Rates per head (60 percent of 3 months of feed costs prior to payment factor)
2023	Beef Cow (1 AU)	\$58.12	\$34.87	\$104.61
2023	Dairy Cow (2.6 AU)	151.12	90.67	272.01
2024	Beef Cow (1 AU)	52.56	31.54	94.62
2024	Dairy Cow (2.6 AU)	136.66	82.00	246.00

The following is the ELRP 2023 and 2024 FW payment calculation:

Step A:

(1) The number of eligible covered livestock (by livestock kind/type/weight) on the beginning date of the qualifying disaster event, multiplied by;

(2) The producer's share of the reported livestock, multiplied by;

(3) The ELRP 2023 or 2024 FW Wildfire Payment Rate, which equals 1 month of calculated monthly feed costs, or the ELRP 2023 or 2024 FW Flood Payment Rate, which equals 3 months of calculated monthly feed costs.

Step B: The resulting number obtained from the multiplication of (1), (2), and (3) equals the gross ELRP 2023 or 2024 FW payment. This number is

then multiplied by a payment factor, if applicable, to be determined by the Deputy Administrator, to arrive at the ELRP 2023 and 2024 FW payment. A payment factor will be applied to ensure that total payments do not exceed the available funding.

The ELRP 2023 and 2024 FW Payment Rates used in Step A (3) will be equal to 60 percent of the calculated monthly feed cost per 1 AU for 1 month for the applicable calendar year for a qualifying wildfire and 60 percent of the calculated monthly feed cost per 1 AU for 3 months for the applicable calendar year for a qualifying flood.

The following is an example of the payment calculation for ELRP 2023 and 2024 FW for a loss due to a qualifying

flood in calendar year 2024. An eligible livestock producer was directly impacted by a qualifying flood in Alleghany County, North Carolina, on September 27, 2024, due to Hurricane Helene. This disaster destroyed feed that had been purchased and limited livestock grazing, causing the producer to purchase additional supplemental feed to sustain the producer's livestock. The producer provided documentation that the producer owned 250 head of adult beef cattle in inventory on the beginning date of the qualifying flood. The following illustrates the gross ELRP 2024 FW payment calculation for this eligible livestock producer, before application of a payment factor, if applicable:

TABLE 3—GROSS ELRP 2024 FW (FLOOD) PAYMENT CALCULATION EXAMPLE

Livestock kind, type, and weight of livestock	Number of livestock in inventory on the beginning date of disaster event	× ELRP 2024 FW (flood) payment rate	= Gross ELRP 2024 FW payment before payment Factor, as applicable
Beef Cattle, Adult Cows and Bulls	250	\$94.62	\$23,655.00

FSA will not issue payments at the beginning of the application period. However, during the application period, the Deputy Administrator will evaluate program demand and if an initial payment factor can be established, payments may begin to be processed.

After the application period, FSA will determine a final payment factor, if applicable, to be applied to the gross ELRP 2023 and 2024 FW payment calculation described above to ensure payments do not exceed the funding authorized by the Act. The final

payment factor will be announced in a USDA press release.

Payment Limitation

As required by the Act, ELRP 2023 and 2024 FW is subject to payment limitations consistent with 7 CFR

760.1507, as in effect on December 21, 2024. Separate payment limitations apply to each program year (2023 and 2024). For payment limitation purposes, payments under ELRP 2023 and 2024 FW and the previous ELRP 2023 and 2024 will be combined for each program year, consistent with the combined payment limitation used for each program year of the Emergency Relief Program (ERP) Phase 1 and Phase 2, ELRP and ELRP Phase 2, and ERP 2022 Tracks 1 and 2. Therefore, producers who have received the maximum payment amount for a program year under ELRP 2023 and 2024, based on their applicable payment limitation, will not be eligible to receive an additional payment under ELRP 2023 and 2024 FW for the same program year.

The payment limitation is determined by the person's or legal entity's average adjusted gross farm income. Specifically, a person or legal entity, other than a joint venture or general partnership, cannot receive, directly or indirectly, more than \$125,000 for each program year if their average adjusted gross farm income is less than 75 percent of their average adjusted gross income (AGI) for the applicable base period. If at least 75 percent of the person or legal entity's average AGI is average adjusted gross farm income and the participant provides the required certification and documentation, as discussed below, the person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to \$250,000 for each program year.

Average adjusted gross farm income includes income derived from farming, ranching, and forestry operations, which has the same meaning for ELRP 2023 and 2024 FW as in other recent FSA programs such as ELRP 2023 and 2024, the Supplemental Disaster Relief Program (SDRP), ERP, ERP 2022, ELRP, and ELRP 2022. If the average adjusted gross farm income derived from the items listed in the definition of "income derived from farming, ranching, and forestry operations" (7 CFR 760.2102) 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 sale, trade, or other disposition of equipment to conduct farm, ranch, or forestry operations, and the provision of production inputs and production services to farmers, ranchers, foresters, and farm operations. Inclusion of those items and benefits in this manner was first introduced by section 1604 of the Food Conservation and Energy Act of 2008 (Pub. L. 110-

234), which amended section 1001D of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171). This provision has been applied in other recent FSA and Commodity Credit Corporation programs that use a producer's average adjusted gross farm income for payment eligibility or payment limitation purposes.

As provided in 7 CFR 1400.105, 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 to the legal entity has been reduced by the proportionate ownership interest of the member due to that member's ineligibility. As in other FSA programs, attribution of payments made to legal entities will be tracked through four levels of ownership 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;⁸
- 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.

If an individual or legal entity is not eligible to receive ELRP 2023 and 2024 FW 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.

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.

ELRP 2023 and 2024

ELRP 2023 and 2024 was announced on May 29, 2025 (90 FR 22614). This rule amends § 760.2004 to provide that October 31, 2025 is the final date for a producer to have an approved LFP application on file for the 2023 or 2024 program year to receive an ELRP 2023 and 2024 payment, and all payment eligibility forms must be submitted to FSA by November 2, 2026. It also amends the payment limitation provisions of ELRP 2023 and 2024 in 760.2006(a). As described above, payments will be combined for payment limitation purposes for ELRP 2023 and 2024 and ELRP 2023 and 2024 FW.

Notice and Comment and Effective Date

The Administrative Procedure Act (APA, 5 U.S.C. 553(a)(2)) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to benefits or contracts. This rule governs disaster assistance payments to agricultural producers and therefore falls within the benefits exemption.

This rule is exempt from the regulatory analysis requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) because it involves matters relating to benefits. The requirements for the regulatory flexibility analysis in 5 U.S.C. 603 and 604 are specifically tied to the

⁸The "first level or payment legal entity" is the highest level of ownership of the applicant to whom payments can be attributed or limited. There will be a reduction applied for the "first level or payment legal entity," and if the payment entity happens to be a joint venture, that reduction is applied to the first level, or highest level, for payments. If the applicant is business type that does not have a limitation or attribution, the reduction is applied to the first level, but if the business type can have the reduction applied directly to it, then the limitation applies.

requirement for a proposed rule by section 553 or any other law; in addition, the definition of rule in 5 U.S.C. 601 is tied to the publication of a proposed rule.

The Office of Management and Budget (OMB) found this rule meets the criteria in 5 U.S.C. 804(2) of the Congressional Review Act (CRA), which would ordinarily necessitate delaying its effective date for 60 days (5 U.S.C. 801(a)(3)(A)). However, the CRA, at 5 U.S.C. 808(2) allows an agency to make such regulations effective immediately if the agency finds there is good cause to do so. USDA has determined that such good cause exists here. The beneficiaries of this rule are livestock producers who have incurred losses as a result of increased supplemental feed costs due to qualifying floods and qualifying wildfires in calendar years 2023 and 2024, and this assistance is necessary to help those producers sustain their normal business operations. To mitigate further harm to livestock producers for losses due to qualifying events that were beyond their control, USDA finds that notice and public procedure are contrary to the public interest. Therefore, USDA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Accordingly, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, and 14192

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 “Unleashing Prosperity Through Deregulation” announced the Administration policy to significantly reduce the private expenditures required to comply with Federal regulations to secure America’s economic prosperity and national security and the highest possible quality of life for each citizen and to alleviate unnecessary regulatory burdens placed on the American people. In line with the Executive Order requirements, the Agency chose this regulatory approach, which uses monthly feed costs and

conversion rates previously established for LFP and does not require documentation of qualifying disaster events in certain counties identified by the Deputy Administrator, to maximize benefits and minimize burden on American producers. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant or economically significant. This rule is not an E.O. 14192 regulatory action because it does not impose any more than de minimis regulatory costs.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866 section 3(f)1 and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full CBA is available on regulations.gov.

Cost Benefit Analysis Summary

ELRP 2023 and 2024 FW compensates eligible livestock producers in qualifying disaster-affected areas who faced increased supplemental feed costs due to degraded forage conditions from qualifying flood, or qualifying wildfire on non-federally managed land, in 2023 and 2024. To ensure rapid assistance, payments will be calculated based on a simplified formula: eligible producers will be compensated for the equivalent of 60 percent of 1 month of the calculated monthly feed costs for the producer’s livestock inventories for a qualifying wildfire and 3 months of the calculated monthly feed costs for a qualifying flood. The monthly feed costs are calculated based on the kind, type, and weight class, if applicable, for the livestock at the time of the qualifying event using the same monthly feed cost calculation used for LFP. Payments will be issued after the program application period deadline, subject to adjustment using a payment factor to keep total costs within the available funding.

Estimated ELRP 2023 and 2024 FW costs total \$2.45 billion before payment factoring: about \$1.01 billion for 2023 floods, \$1.08 billion for 2024 floods, \$17 million for 2023 wildfires, and \$120 million for 2024 wildfires. In addition, the sum of those numbers is increased by 10 percent to account for livestock in counties without formal Secretarial, Presidential, or APLN Disaster Designations that may have experienced a qualifying disaster event and to account for all other eligible animals. Payments are expected to be factored as estimated program demand is anticipated to exceed available funds. The majority of payments are expected to be made in FY 2026.

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) and the USDA regulation for compliance with NEPA (7 CFR part 1b).

The purpose of ELRP 2023 and 2024 Flood and Wildfire is to provide assistance to eligible livestock producers for losses incurred due to increased supplemental feed costs from a qualifying flood or qualifying wildfire in calendar year 2023 and 2024. The limited discretionary aspects of this program 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 § 1b.4(c)(16)(viii) that apply 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 § 1b.(c)(16)(ix) that applies to safety net programs.

No Extraordinary Circumstances (§ 1b.3(f)) exist because these are administrative payment programs. As such, the implementation of and participation in ELRP 2023 and 2024 Flood and Wildfire 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, consistent with § 1b.3(g), this document serves as the programmatic finding of applicability and no extraordinary circumstance (FANEC) for this Federal action.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a Government-to-Government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

USDA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our

knowledge, have Tribal implications that required Tribal consultation at this time. If a Tribe requests consultation, the USDA Farm Service Agency will work with the Office of Tribal Relations to ensure meaningful consultation is provided.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act Requirements

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 1320), requires that OMB approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. The information collection request has been approved by OMB under the control number of 0503-0028; Expiration Date: 10/31/2027. FSA will issue payments to producers using the following forms: CCC-901, CCC-902E, CCC-902I, AD-1026, and FSA-510. In addition, for the information collection under 0503-

0028; Expiration Date: 10/31/2027, the agency is seeking to use FSA-970 with this data collection. The AD-1026 is exempt.⁹ The FSA-970 is the only new data collection activity associated with this request. The total annual burden hours for this information collection is 240,665. See table below for the breakout. This final rule is a one-time announcement of ELRP 2023 and 2024 FW Federal financial assistance funding.

For Further Information Contact: Requests for additional information or copies of this information collection should be directed to Kathy Sayers, Farm Service Agency, U.S. Department of Agriculture, via email to Kathy.Sayers@usda.gov.

Title: Emergency Livestock Relief Program (ELRP) 2023 and 2024 Flood and Wildfire (FW).

Form Numbers: CCC-901, CCC-902E, CCC-902I, FSA-510, FSA-970, and AD-1026.

OMB Number: 0503-0028.

Expiration Date: 10/31/2027.

Type of Request: Revision to Generic Information Collection.

Abstract: As authorized by Section 2102 of Division B of Title I of the American Relief Act, 2025 ("the Act"; Pub. L. 118-158), FSA is administering ELRP 2023 and 2024 Flood and Wildfire (FW) to assist eligible livestock producers who suffered losses due to increased supplemental feed costs due to a qualifying flood or qualifying wildfire occurring in calendar years 2023 and 2024. ELRP 2023 and 2024 FW will use approximately \$1 billion in funds. Due to limited funding, payments may be factored.

Livestock producers who experienced increased supplemental feed costs due to a qualifying flood or qualifying wildfire in calendar years 2023 or 2024 are required to submit a FSA-970, ELRP 2023 and 2024 FW Application, for program years 2023, 2024, or both if applicable by the program application period deadline of October 31, 2025. Eligible livestock producers may receive

payment for one or both years. Applicants will also need to provide documentation to support the livestock inventories reported on the application, along with evidence that a qualifying flood or qualifying wildfire impacted their livestock, as applicable. For contract growers, a copy of their grower agreement must be submitted with their application. If the livestock producer's operation is not established in FSA's system of farm records for the physical location for which they are applying for assistance, they must supply FSA a deed, lease, or other forms of verification to add them to the land record. Other forms required are the CCC-902, Farm Operating Plan, for an individual or legal entity as provided in 7 CFR part 1400; CCC-901, Member Information for Legal Entities, if applicable; AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification, for the participant and applicable affiliates; and FSA-510, Request for an Exception to the \$125,000 Payment Limitation for Certain Programs, for participants and members of legal entities to be eligible for the increased payment limitation of \$250,000, as applicable.

FSA will calculate payments either during the application period if program demand can be determined or after the application period. The eligibility criteria applicable to LFP also apply to ELRP 2023 and 2024 FW, excluding the LFP average adjusted gross income (AGI) limitation.

Affected Public: Farms or businesses for profit.

Estimated Number Respondents: 396,195.

Estimated Number of Responses per Respondent: 2.70356012.

Estimated Number of Total Annual Responses per Respondent: 1,071,137.

Estimated Time per Respondent: .2246816 hours.

Estimated Total Annual Burden on Respondents: 240,665 burden hours.

Burden activity or form	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours per year
Emergency Livestock Relief Program (ELRP) 2023 and 2024 Flood and Wildfire (FW) Application—FSA-970	396,195	1	396,195	0.25	99,049
Member Information for an Entity—CCC-901	45,423	1	45,423	0.50	22,712
Farm Operating Plan for an Individual or Entity—CCC-902I or CCC-902E	90,845	1	90,845	0.50	45,423
Request for an Exception to the \$125,000 Payment Limitation for Certain Programs—FSA-510	7,817	1	7,817	0.0835	653
Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification—AD-1026	90,845	1	90,845	0.0835	EXEMPT
Contract Grower Agreement	7,817	1	7,817	0.0835	653

⁹ This information collection is exempted from the Paperwork Reduction Act as specified in the

Agricultural Act of 2014 (Pub. L. 113-79, Title II, Subtitle G, Funding and Administration).

Burden activity or form	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours per year
Proof of Livestock Inventories	396,195	1	396,195	0.167	66,165
Proof of Qualifying Disaster Event	36,000	1	36,000	0.167	6,012
Total Estimates	396,195	2.7035601	1,071,137	0.2246816	240,665

There are 396,195 respondents anticipated for this data collection. The “Number of Respondents” column is not a sum, it represents the same respondents participating in different activities for this data collection; therefore, these respondents are not double counted.

Once this request has been approved by OMB, the agency plans to publish another notice in the **Federal Register** announcing OMB approval. There is no recordkeeping or third-party burden on the respondents.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act of 2002, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal assistance programs, as found in the Assistance Listing, to which this document applies are 10.986—Emergency Livestock Relief Program 2023 and 2024, and 10.987—Emergency Livestock Relief Program (ELRP) 2023 and 2024 Flood and Wildfire (FW).

List of Subjects in 7 CFR Part 760

Acreage allotments, Dairy products, Indemnity payments, Pesticides and pest, Reporting and recordkeeping requirements.

For the reasons discussed above, the Farm Service Agency amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

- 1. The authority citation for part 760 continues to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658; Title I, Pub. L. 117–43, 135 Stat. 356; and Division N, Title I, Pub. L. 117–328, 136 Stat. 4459; Division B, Title I, Pub. L. 118–158, 138 Stat. 1722.

Subpart T—Emergency Livestock Relief Program 2023 and 2024

- 2. Amend § 760.2004 as follows:
 - a. In paragraph (a), remove the words “the deadline announced by the Deputy Administrator” and add “October 31, 2025” in their place; and
 - b. In paragraph (b) introductory text, remove the words “the deadline announced by the Deputy Administrator” and add “November 2, 2026” in their place.

§ 760.2006 [Amended]

- 3. In § 760.2006(a) introductory text, remove the words “payments under this subpart” and add in their place “total payments under this subpart and subpart U combined”.
- 4. Add subpart U, consisting of §§ 760.2100 through 760.2110, to read as follows:

Subpart U—Emergency Livestock Relief Program 2023 and 2024 Flood and Wildfire

Sec.

- 760.2100 Applicability.
- 760.2101 Administration.
- 760.2102 Definitions.
- 760.2103 Eligible producers.
- 760.2104 Qualifying disaster events.
- 760.2105 Eligible loss condition.
- 760.2106 Eligible covered livestock.
- 760.2107 Application.
- 760.2108 Payment calculation.
- 760.2109 Payment limitation.
- 760.2110 Miscellaneous provisions.

§ 760.2100 Applicability.

(a) This subpart specifies the eligibility requirements and payment calculations for the Emergency Livestock Relief Program (ELRP) 2023 and 2024 Flood and Wildfire (FW), which is authorized by Title I of the Disaster Relief Supplemental Appropriations Act, 2025 (Division B of the American Relief Act, 2025; Public Law 118–158). ELRP 2023 and 2024 FW provides payments to eligible livestock producers who suffered losses due to increased supplemental feed costs incurred during calendar year 2023 and 2024 due to a qualifying flood or qualifying wildfire.

(b) To be eligible for ELRP 2023 and 2024 FW payments, participants must

comply with all applicable provisions under this subpart.

§ 760.2101 Administration.

(a) ELRP 2023 and 2024 FW is administered under the general supervision and direction of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs (Deputy Administrator).

(b) FSA representatives do not have authority to modify or waive any of the provisions of the regulations of this subpart as amended or supplemented.

(c) The State committee will take any action required by the regulations of this subpart that the county committee has not taken. The State committee will also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this subpart, or

(2) Require a county committee to withhold taking any action that is not in accordance with this subpart.

(d) No provision or delegation to a State or county committee will preclude the FSA Administrator, the Deputy Administrator, or a designee or other such person, from determining any question arising under the programs of this subpart, or from reversing or modifying any determination made by a State or county committee.

(e) Payments issued under this subpart are subject to the availability of funds authorized under Federal law. Within the funding limitation that may exist under law, the only funds that will be considered available to pay eligible losses will be those amounts approved by the Secretary. If, within the limits of the funding made available by the Secretary, approval of eligible applications would result in expenditures in excess of the amount available, FSA will prorate the available funds by a national payment factor to reduce the total expected payments to the amount made available by the Secretary. FSA will make payments based on the payment factor determined by FSA.

§ 760.2102 Definitions.

The definitions in parts 718, 1400, and 1416 of this title apply to this subpart, except where they conflict with

the definitions in this section. The following definitions also apply.

Adult beef bull means a male beef breed bovine animal that was at least 2 years old and used for breeding purposes on or before the beginning date of a qualifying flood or qualifying wildfire.

Adult beef cow means a female beef breed bovine animal that has delivered one or more offspring. A first-time bred beef heifer is also considered an adult beef cow if it was pregnant on or before the beginning date of a qualifying flood or qualifying wildfire.

Adult beefalo bull means a male hybrid of a beef bull and a bison bull that was used for breeding purposes and was at least 2 years old on or before the beginning date of the qualifying flood or qualifying wildfire.

Adult beefalo cow means a female hybrid of a beef cow and a bison cow that has delivered one or more offspring on or before the beginning date of the qualifying flood or qualifying wildfire. A first-time bred beefalo heifer is also considered an adult beefalo cow if it was pregnant on or before the beginning date of the qualifying flood or qualifying wildfire.

Adult buffalo or bison bull means a male animal of those breeds that was used for breeding purposes and was at least 2 years old on or before the beginning date of the qualifying flood or qualifying wildfire. This definition also includes water buffalo.

Adult buffalo or bison cow means a female animal of those breeds that has delivered one or more offspring on or before the beginning date of the qualifying flood or qualifying wildfire. A first-time bred buffalo or bison heifer is also considered an adult buffalo or bison cow if it was pregnant on or before the beginning date of the qualifying flood or qualifying wildfire. This definition also includes water buffalo.

Adult dairy bull means a male dairy breed bovine animal at least 2 years old used primarily for breeding dairy cows on or before the beginning date of a qualifying flood or qualifying wildfire.

Adult dairy cow means a female dairy breed bovine animal used for the purpose of providing milk for human consumption that has delivered one or more offspring on or before the beginning date of a qualifying flood or qualifying wildfire. A first-time bred dairy heifer is also considered an adult dairy cow if it was pregnant on or before the beginning date of a qualifying flood or qualifying wildfire.

APLN means an FSA Administrator's Physical Loss Notification made according to § 759.6(a)(2) of this title.

Application means the ELRP 2023 and 2024 FW application form (FSA-970).

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, including losses, for the base period.

(1) If the resulting average adjusted gross farm income derived from paragraphs (1) through (13) of the definition for "income derived from farming, ranching, and forestry operations" in this section 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:

(i) The sale, trade, or other disposition of equipment to conduct farm, ranch, or forestry operations; and

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

(2) For legal entities not required to file a Federal income tax return, or a person or legal entity that did not have taxable income in 1 or more of the tax years during the base period, the average gross farm income will be the adjusted gross farm income, including losses, averaged for the base period, as determined by FSA. For a legal entity created during the base period, the adjusted gross farm income average will include only those years of the base period for which it was in business; however, a new legal entity will not be considered "new" to the extent it takes over an existing operation and has any elements of common ownership interest and land with the preceding person or legal entity from which it took over. When there is such commonality, income of the previous person or legal entity will be averaged with that of the new legal entity for the base period. For a person filing a joint tax return, the certification of average adjusted gross farm income may be reported as if the person had filed a separate Federal tax return, and the calculation is consistent with the information supporting the filed joint return.

Average AGI means the average of the adjusted gross income as defined under 26 U.S.C. 62 or comparable measure of the person or legal entity for the base period.

Base period means:

(1) 2019, 2020, and 2021 for the 2023 program year; and

(2) 2020, 2021, and 2022 for the 2024 program year.

Covered livestock means livestock of an eligible livestock producer that, on

the beginning date of a qualifying flood or qualifying wildfire, the eligible livestock producer owned, leased, purchased, entered into a contract to purchase, or was a contract grower of. Notwithstanding the foregoing portions of this definition, covered livestock does not include livestock in feedlots.

Disaster designation means designation as a primary county (not including contiguous counties) for any of the following that were issued for a flood, including hurricanes, tropical storms, typhoons, or wildfire that occurred in the 2023 or 2024 calendar year:

- (1) APLN;
- (2) Presidential declaration; or
- (3) Secretarial disaster designation.

ELRP 2023 and 2024 means Emergency Livestock Relief Program 2023 and 2024 administered under 7 CFR part 760, subpart T.

ELRP 2023 and 2024 FW means Emergency Livestock Relief Program 2023 and 2024 Flood and Wildfire administered under 7 CFR part 760, subpart U.

Farming operation means a business enterprise engaged in the production of agricultural products, commodities, or livestock, operated by a person, legal entity, or joint operation. A person or legal entity may have more than one farming operation if the person or legal entity is a member of one or more legal entities or joint operations.

Grazing animal means those species of livestock that, from a nutritional and physiological perspective, are weaned and satisfy more than 50 percent of their net energy requirement through the consumption of forage grasses and legumes, regardless of whether they are grazing or are present on grazing land or pastureland. Unweaned livestock are not considered grazing animals.

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

- (1) Production of 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, or forestry commodities including for renewable energy;

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

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

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

(10) Benefits (including, but not limited to, cost-share assistance and other payments) from any Federal program made available and applicable to payment eligibility and payment limitation rules, as provided in 7 CFR part 1400;

(11) Income reported on Internal Revenue Service (IRS) Schedule F (Form 1040), *Profit or Loss from Farming*, or other schedule, approved by the Deputy Administrator, 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, an Interest Charge Domestic International Sales Corporation (also known as 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, and forestry activities as defined in this subpart; and

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

IRS means the Department of the Treasury, Internal Revenue Service.

Legal entity, as used in this subpart:

(1) Means an entity that is created under Federal or State law and that:

(i) Owns land or an agricultural commodity; or

(ii) Produces an agricultural commodity; and

(2) Includes corporations, joint stock companies, associations, limited partnerships, limited liability companies, irrevocable trusts, estates, charitable organizations, general partnerships, joint ventures, and other similar organizations created under Federal or State law including any such organization participating in a business structure as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization. A business operating as a sole proprietorship is considered a legal entity.

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.

Monthly precipitation means precipitation reported in a specific month period, derived from the National Oceanic and Atmospheric Administration, National Centers for Environmental Information "NOAA Monthly Climate Gridded Dataset (NCLIMGrid)" available at <https://www.ncei.noaa.gov/access/us-climate-normals/>.

Non-adult beef cattle means a weaned beef breed bovine animal that on or before the beginning date of a qualifying flood or qualifying wildfire does not meet the definition of adult beef cow or bull.

Non-adult beefalo means a weaned hybrid of a beef animal and bison that on or before the beginning date of the qualifying flood or qualifying wildfire does not meet the definition of adult beefalo cow or bull.

Non-adult buffalo or bison means a weaned animal of those breeds that, on or before the beginning date of the qualifying flood or qualifying wildfire, does not meet the definition of adult buffalo or bison cow or bull. This definition also includes water buffalo.

Non-adult dairy cattle means a weaned bovine animal, of a breed used for the purpose of providing milk for human consumption, that on or before the beginning date of a qualifying flood or qualifying wildfire does not meet the definition of adult dairy cow or bull.

Normal precipitation means precipitation based on the National Oceanic and Atmospheric Administration, National Centers for Environmental Information "U.S. Climate Normals, Latest 30 Year Period (1991–2020)" available at <https://www.ncei.noaa.gov/access/us-climate-normals/>.

Owner means one who had legal ownership of the livestock for which benefits are being requested at the beginning of a qualifying flood or qualifying wildfire.

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 2023 and 2024 FW, 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 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.

Presidential declaration means a Major Disaster Declaration or an Emergency Declaration by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121–2), provided that it is not solely for Category A and Category B Public Assistance or for Hazard Mitigation Grant Assistance.

Production inputs mean material to conduct farming operations, such as seeds, chemicals, and fencing supplies.

Production services mean services provided to support a farming operation, such as custom farming, custom feeding, and custom fencing.

Program year means the calendar year (2023 or 2024) in which the qualifying disaster event occurred.

Qualifying disaster event means a qualifying flood or qualifying wildfire that occurred in calendar year 2023 or 2024.

Qualifying flood means a severe and extreme flooding event that causes widespread destruction, significant property and crop damage, livestock loss and displacement, and major economic loss to infrastructure and the environment, typically overwhelming local flood defenses and response systems.

Qualifying wildfire means an unplanned, unwanted fire burning in natural areas like forests, grasslands, or brushlands on non-federally managed lands. These fires can be started by natural causes like lightning or human activities, and they consume vegetation and spread based on environmental conditions. A qualifying wildfire does not include fires that were planned, intentional, or prescribed burns.

§ 760.2103 Eligible producers.

(a) To be eligible for payment under this subpart, a livestock producer must be an individual or entity who is an owner, operator, landlord, tenant, or sharecropper, who as of the beginning date of the qualifying disaster event, shares in the risk of producing livestock and who is entitled to share in the livestock available for marketing from the farm, or would have shared had the livestock been produced, and who also meets the requirements of paragraph (b) of this section. The term eligible producer can include a livestock owner or contract grower who satisfies other requirements of this section.

(b) An individual or legal entity seeking to be an eligible producer under this subpart must submit a Farm Operating Plan, for an individual or legal entity as provided in 7 CFR part 1400, and be a:

(1) Citizen of the United States;
 (2) Resident alien, which for purposes of ELRP 2023 and 2024 FW means “lawful alien” as defined in 7 CFR part 1400;

(3) Partnership organized under State law consisting solely of citizens of the United States or resident aliens;

(4) Corporation, limited liability company, or other organizational structure organized under State law consisting solely of citizens of the United States or resident aliens; or

(5) 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).

(c) The following eligibility provisions apply to payments under this subpart: 7 CFR part 1416, subparts A and C; 7 CFR part 12; and 7 CFR 718.6.

(d) Eligible livestock producers must be identified as either an owner or operator as defined in 7 CFR 718.2, or an “other producer or tenant” who is associated with a tract or field not as an owner or operator, in FSA’s farm records for the applicable program year where the eligible covered livestock were physically located or normally would have been physically located in the absence of the qualifying disaster event occurring. Livestock producers who are not established in FSA’s farm record system must provide proof of ownership, a lease, or owner or operator verification to confirm their interest and physical location for the applicable program year to be added to an existing Farm Serial Number or have one established for them.

(e) To be eligible for a payment under this subpart, a livestock producer must certify that they have incurred increased supplemental feed costs due to a qualifying disaster event in calendar year 2023 or 2024. Producers may receive payment for one or both years, if eligible, and they may receive payments for multiple qualifying disaster events, if applicable, not to exceed the equivalent of 3 months of assistance per livestock producer, per physical location county, per calendar year.

(f) If a contract grower is an eligible livestock producer for covered livestock, the owner of that livestock is not eligible for payment.

(g) Eligible livestock producers do not include livestock auction facilities, operations in the business of housing livestock on a day-to-day basis (including but not limited to preparing livestock for sale or export), and those whose business is to buy and sell livestock from various sources, only serving as an intermediary between

livestock producers and buyers. Commercial feedlots and feedyards (feeding livestock in the final stage of production before slaughter) are not eligible.

§ 760.2104 Qualifying Disaster Events.

(a) Qualifying disaster events for ELRP 2023 and 2024 FW include only the following:

(1) A qualifying flood in a county identified by the Deputy Administrator that was severely impacted with flooding, and received more than 200 percent above normal monthly precipitation associated with storm events identified in the National Oceanic and Atmospheric Administration (NOAA) National Centers for Environmental Information (NCIA) “U.S. Billion Dollar Weather and Climate Disasters” (available at <https://www.ncdc.noaa.gov/access/billions>) for flooding and tropical cyclone events in calendar years 2023 and 2024. Additional counties are included that the Deputy Administrator has identified as having a catastrophic flooding event but did not necessarily meet the precipitation criteria for a qualifying flood—in these cases, counties are identified through public data sources that include but are not limited to disaster designations, supported by weather data indicating precipitation anomalies causing catastrophic flooding or flash flooding emergencies, and Federal, State, or local emergency management reports;

(2) A qualifying wildfire in a county identified by the Deputy Administrator that was severely impacted and received a primary disaster declaration for wildfire in calendar year 2023 or 2024; and

(3) A qualifying flood or qualifying wildfire in any other county that, on an individual basis, an eligible producer’s livestock was physically located or normally would have been physically located absent the qualifying disaster event in calendar year 2023 or 2024. Acceptable supporting documentation to verify the occurrence of the qualifying disaster event reported on the FSA-970 meets the established criteria and occurred is required as established in § 760.2107(a) and (b) of this subpart.

(b) The beginning date of the qualifying disaster event that the eligible livestock producer submits on the FSA-970 is the same date the producer is to report the livestock inventories, and this date determines which program year the qualifying disaster event is considered eligible for payment.

(c) Losses due to wildfire occurring on rangeland managed by a Federal agency are not eligible.

§ 760.2105 Eligible Loss Condition.

To be eligible for a payment for ELRP 2023 and 2024 FW, an eligible livestock producer must have incurred a loss as a result of increased supplemental feed costs due to a qualifying flood or qualifying wildfire that occurred in calendar year 2023 or 2024, if the eligible livestock producer, as of the beginning date of the qualifying disaster event, was an owner, operator, landlord, tenant, sharecropper, or eligible contract grower who shares in the risk of producing livestock and is entitled to share in the eligible covered livestock physically located in a county affected by the qualifying disaster event, or normally would have been physically located in that county, in the absence of the qualifying disaster event. When determining if they had increased supplemental feed costs, livestock producers must take into account any changes in livestock inventories and average market prices from a normal year to the calendar year in which their livestock was impacted by a qualifying disaster event.

§ 760.2106 Eligible Covered Livestock.

(a) To be considered eligible covered livestock for ELRP 2023 and 2024 FW payments, livestock must meet all the following conditions:

(1) Be grazing animals such as adult or non-adult beef cattle, adult or non-adult beefalo, adult or non-adult buffalo or bison, adult or non-adult dairy cattle, alpacas, deer, elk, emus, equine, goats, llamas, ostriches, reindeer, or sheep;

(2) Be livestock that, as of the beginning date of the qualifying disaster event, were physically located in the county in which the qualifying disaster event occurred, or normally would have been physically located, in the absence of the qualifying disaster event on or after the disaster event; or were livestock physically relocated from the county due to the imminent threat of the qualifying flood or qualifying wildfire occurring.

(3) Be livestock that, on the beginning date of the qualifying disaster event, the eligible livestock producer:

- (i) Owned;
- (ii) Leased;
- (iii) Purchased;
- (iv) Entered into a contract to purchase; or

(v) Was a contract grower of; and

(4) Been livestock produced or maintained for commercial use or be livestock that is produced and maintained for producing livestock

products for commercial use, such as milk from dairy, as part of the contract grower's or livestock owner's farming operation on the beginning date of the qualifying flood or qualifying wildfire;

(b) The covered livestock categories are:

- (1) Adult beef cattle cows and bulls;
- (2) Adult dairy cows and bulls;
- (3) Adult buffalo, beefalo, bison cows and bulls (includes water buffalo);
- (4) Alpacas;
- (5) Deer;
- (6) Elk;
- (7) Emu;
- (8) Equine;
- (9) Goats;
- (10) Llamas;
- (11) Non-adult beef cattle;
- (12) Non-adult dairy cattle;
- (13) Non-adult beefalo, buffalo, or bison (includes water buffalo);
- (14) Ostriches;
- (15) Reindeer; and
- (16) Sheep.

(c) Livestock that are not covered include, but are not limited to:

(1) Livestock that were or would have been in a feedlot, on the beginning date of the qualifying disaster event, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary;

(2) Ineligible livestock, or livestock that do not meet the definition of grazing animals;

- (3) Yaks;
- (4) Poultry;
- (5) Swine;

(6) Unweaned livestock or animals not meeting the definition of a grazing animal;

(7) Any wild free roaming livestock, including horses and deer; and

(8) Livestock produced or maintained for reasons other than commercial use as part of a farming operation. Such excluded uses include, but are not limited to:

- (i) Racing or wagering;
- (ii) Hunting; and
- (iii) Consumption by owner.

§ 760.2107 Application Process.

(a) To be eligible for a payment under this subpart, a producer must submit the following to FSA by October 31, 2025:

(1) FSA-970, Emergency Livestock Relief Program 2023 and 2024 Flood and Wildfire Application, for the applicable year (2023 or 2024);

(2) Supporting documentation that verifies the producer's livestock inventories reported on the FSA-970 as provided in paragraph (b) of this section; and

(3) For qualifying disaster events in counties not approved by the Deputy Administrator as specified in 760.2104(a)(3), supporting documentation that substantiates that the qualifying disaster event occurred and affected the livestock in the county where the livestock were physically located, or would have normally been physically located in the absence of the qualifying disaster event, as provided in paragraph (c) of this section.

(4) Contract grower agreement for the applicable program year, if applicable.

(b) Supporting documentation of livestock inventories as required by paragraph (a)(2) of this section includes but is not limited to the following: feed records, daily milking records, veterinary records, canceled check documentation, balance sheets, inventory records used for tax purposes, loan records, bank statements, farm credit balance sheets, property tax records, brand inspection records, sales and purchase receipts, private insurance documents, chattel inspections, contemporaneous producer records existing at the time of event, shearing and docking records, ear tag records, trucking or livestock hauling records, and other documentation determined acceptable by the county committee.

(c) Supporting documentation that a qualifying disaster event occurred as required by paragraph (a)(3) of this section includes but is not limited to the following: photographs that document the impact a qualifying loss event had on the producer's livestock, showing damage to land and property; documentation that indicates economic losses, loss or displacement of livestock, and damage to infrastructure; insurance documentation; reports of a declared emergency area by local, State, or Federal authorities; documentation that supports long term recovery needs such as debris removal, property or land repair; news articles; NOAA storm event database records; other FSA disaster program participation records, and any other documentation determined acceptable by the county committee.

(d) A producer must also submit the following forms to FSA by November 2, 2026 if not previously filed for the applicable program year (2023 or 2024):

(1) CCC-902, Farm Operating Plan, for an individual or legal entity as provided in 7 CFR part 1400;

(2) CCC-901, Member Information for Legal Entities, if applicable;

(3) AD-1026, Highly Erodible Land Conservation (HEL) and Wetland Conservation (WC) Certification, for the ELP 2023 and 2024 FW participant

and applicable affiliates as provided in 7 CFR part 12; and

(4) 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 participants and members of legal entities to be eligible for the payment limitation of § 760.2006(a)(2), if applicable.

(e) If requested by FSA, a livestock producer must provide additional documentation that establishes the producer's eligibility for ELP 2023 and 2024 FW. If supporting documentation is requested, the livestock producer must submit the documentation to FSA within 30 calendar days from the request, or the application will be disapproved by FSA. FSA may request supporting documentation to verify information provided by the producer and the producer's eligibility, including, but not limited to, the livestock producer's share of the eligible covered livestock and the physical location of their livestock.

§ 760.2108 Payment calculation.

(a) ELP 2023 and 2024 FW will use the information reported on a producer's approved FSA-970, for the applicable program year (2023 or 2024), as the basis for a payment under this subpart.

(b) FSA will calculate payments under this subpart according to the following:

(1) The number of eligible livestock (by livestock kind, type, and weight range) on the beginning date of the qualifying disaster event, multiplied by;

(2) Producer Share, multiplied by;

(3) The applicable ELP 2023 and 2024 FW Payment Rate, as specified in paragraph (c) of this section, which equals;

(4) The gross ELP 2023 and 2024 FW payment, multiplied by;

(5) An ELP 2023 and 2024 FW payment factor, if applicable, to be determined during or after the application period.

(c) The ELP 2023 and 2024 FW payment rates provided in Table 3 are based on 60 percent of the monthly feed cost per 1 AU, as determined by the Deputy Administrator, for the applicable calendar year, using the same current AU conversion rates as LFP. A qualifying wildfire payment rate equates to 1 month of calculated feed costs, and a qualifying flood payment rate equates to 3 months of calculated feed costs.

TABLE 1 TO PARAGRAPH (c)—ELRP 2023 AND 2024 FW PAYMENT RATES BY ELIGIBLE COVERED LIVESTOCK KIND, TYPE, AND WEIGHT RANGE

Livestock kind	Type and weight range	ELRP 2023 and 2024 FW payment rates			
		2023 Wildfire	2023 Flood	2024 Wildfire	2024 Flood
Alpaca	All	\$7.68	\$23.04	\$6.94	\$20.82
Beef	Adult cows and bulls	34.87	104.61	31.54	94.62
	Non adult 500 lbs. or more	26.15	78.45	23.65	70.95
	Non-adult less than 500 lbs	17.44	52.32	15.77	47.31
Buffalo, Bison, and Beefalo	Adult cows and bulls	34.87	104.61	31.54	94.62
	Non adult 500 lbs. or more	26.15	78.45	23.65	70.95
	Non-adult less than 500 lbs	17.44	52.32	15.77	47.31
Dairy	Adult dairy cows and bulls	90.67	272.01	82.00	246.00
	Non adult 500 lbs. or more	26.15	78.45	23.65	70.95
	Non-adult less than 500 lbs	17.44	52.32	15.77	47.31
Deer	All	8.72	26.16	7.88	23.64
Emus	All	17.85	53.55	16.14	48.42
Elk	All	18.83	56.49	17.03	51.09
Equine	All	25.81	77.43	23.34	70.02
Goats	All	8.72	26.16	7.88	23.64
Llamas	All	12.73	38.19	11.51	34.53
Ostrich	All	19.18	57.54	17.34	52.02
Reindeer	All	7.68	23.04	6.94	20.82
Sheep	All	8.72	26.16	7.88	23.64

(d) FSA will not disburse ELRP 2023 and 2024 FW payments at the beginning of the application period. However, during the application period, the Deputy Administrator may evaluate program demand and begin issuing payments if an initial payment factor can be established to ensure that payments do not exceed available funding. After the application deadline, a final payment factor will be determined and applied, which may or may not provide an additional or final payment, depending upon the factor.

§ 760.2109 Payment limitation.

(a) For each applicable year (2023 and 2024), a person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, total payments under this subpart and subpart T combined of not more than:

(1) \$125,000 if less than 75 percent of the person or legal entity's average adjusted gross income is average adjusted gross farm income; or

(2) \$250,000 if 75 percent or more of the average adjusted gross income of the person or legal entity is average adjusted gross farm income.

(b) To be eligible to receive payments based on the limitations in paragraph (a)(2) of this section, a person or legal entity must submit 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.

(c) 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. 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 2023 or 2024 FW payment attributed to that member.

(d) If a producer or member of a legal entity files FSA-510 and the accompanying certification after their payment is issued but before the deadline specified in paragraph 760.2004(b) of this subpart, FSA will recalculate the payment and issue the additional calculated amount.

(e) ELRP 2023 and 2024 FW applicants filing an FSA-510 are subject to an FSA audit of information submitted for the purpose of increasing the program's payment limitation. As a part of this audit, FSA may request income tax returns, and if requested, must be supplied by all related persons and legal entities. In addition to any other requirement under any Federal statute, relevant Federal income tax returns and documentation must be retained a minimum of 3 years after the end of the calendar year corresponding to the year for which payments or

benefits are requested. Failure to provide necessary and accurate information to verify compliance, or failure to comply with these requirements will result in ineligibility for ELRP 2023 and 2024 FW benefits and require refund of any ELRP 2023 and 2024 FW payments, including interest to be calculated from the date of the disbursement to the producer.

(f) The payment limitation provisions of 7 CFR part 1400, subpart A, and §§ 1400.103–1400.106 apply to ELRP 2023 and 2024 FW.

(g) 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.

(h) If an individual or legal entity is not eligible to receive ELRP 2023 and 2024 FW 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.

§ 760.2110 Miscellaneous provisions.

(a) If an ELRP 2023 and 2024 FW payment resulted from erroneous information reported by the producer, or any person acting on their behalf, the ELRP 2023 and 2024 FW payment will be recalculated and the producer must refund any excess payment to FSA,

including interest to be calculated from the date of the disbursement to the producer.

(b) If FSA determines that the producer intentionally misrepresented information used to determine the producer's ELRP 2023 and 2024 FW payment amount, the application will be disapproved, and the producer must refund the full payment to FSA with interest from the date of disbursement. All persons with a financial interest in a legal entity receiving payments are jointly and severally liable for any refund, including related charges, which is determined to be due to FSA for any reason.

(c) Any required refunds must be resolved in accordance with debt settlement regulations in 7 CFR part 3.

(d) Participants are required to retain documentation in support of their application for 3 years after the date of approval. Participants receiving ELRP 2023 and 2024 FW 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.

(e) Any payment under ELRP 2023 and 2024 FW 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 2023 and 2024 FW payments.

(f) Participants are 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 a 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 2023 and 2024 FW, 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.

(g) For the purposes of the effect of a lien on eligibility for Federal programs (28 U.S.C. 3201(e)), the restriction on receipt of funds under ELRP 2023 and 2024 FW shall not apply to beneficiaries who agree to apply the ELRP 2023 and

2024 FW payments to reduce the amount of the judgment lien.

(h) In addition to any other Federal laws that apply to ELRP 2023 and 2024 FW, the following laws apply: 15 U.S.C. 714; and 18 U.S.C. 286, 287, 371, and 1001.

(i) Prompt pay interest is not applicable to payments under this subpart.

Kimberly Graham,

Acting Administrator, Farm Service Agency.

[FR Doc. 2025-17742 Filed 9-12-25; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Doc. No. AMS-SC-24-0045]

Pears Grown in Oregon and Washington; Increased Assessment Rate for Fresh Pears

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the Fresh Pear Committee (Committee) to increase the assessment rate established for the 2024–2025 and subsequent fiscal periods from \$0.468 to \$0.516 per 44-pound standard box or equivalent for fresh “summer/fall” pears and fresh “winter” pears grown in Oregon and Washington. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective October 15, 2025.

FOR FURTHER INFORMATION CONTACT: Joshua R. Wilde, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326-2724, or Email: Joshua.R.Wilde@usda.gov or Barry.Broadbent@usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-8085, or Email: Antoinette.Carter@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling

of pears grown in Oregon and Washington. Part 927 (referred to as the “Order”) is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” The Committee locally administers the Order and is comprised of growers and handlers of pears operating within the area of production, and a public member.

The Agricultural Marketing Service (AMS) is issuing this final rule in conformance with Executive Order 12866, as amended by Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This final rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires federal agencies to consider whether their rulemaking actions would have tribal implications. AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

This final rule has been reviewed under Executive Order 12988—Civil Justice Reform. Under the Order now in effect, Oregon and Washington pear handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate will be applicable to all assessable Oregon and Washington fresh pears for the 2024–2025 fiscal period, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in