

REVENUE LOSS ASSISTANCE

Emergency Relief Program (ERP) Phase 2

Overview

Emergency Relief Program (ERP) covers losses to crops, trees, bushes and vines due to a qualifying natural disaster event in calendar years 2020 and 2021.

For impacted producers, FSA is administering emergency relief to other crop, high value and specialty crop producers through the following two-phased process:

- Phase 1 leveraged existing **Federal Crop Insurance or Noninsured Crop Disaster Assistance Program (NAP)** data as the basis for calculating initial payments.
- Phase 2 intends to fill additional assistance gaps and cover eligible producers who did not participate in existing risk management programs.

This two-phased approach enables USDA to streamline the application process to reduce the burden on producers, proactively include underserved producers who have been left out of past relief efforts and encourage participation in existing risk management tools that can help producers handle future extreme weather events.

Eligibility – Phase 2

Phase 2 is a tax year based certification program that provides assistance for producers that suffered a loss in revenue due to necessary expenses associated with losses of eligible crops (excluding crops intended for grazing), due in whole or in part, to a qualifying disaster event that occurred in the 2020 or 2021 calendar year. Must be a U.S. citizen, resident alien, which means “lawful alien,” a partnership consisting solely of U.S. citizens or resident aliens, a corporation, limited liability company, or other organizational structure organized under State law consisting solely of U.S. citizens or resident aliens, Indian Tribe or Tribal Organization, per section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

Qualifying natural disaster events include wildfires, hurricanes, floods, derechos, excessive heat, winter storms, freeze (including a polar vortex), smoke exposure, excessive moisture, qualifying drought, and related conditions.

For ERP eligibility, “related conditions” are damaging weather and adverse natural occurrences that occurred concurrently with and as a direct result of a specified qualifying disaster event.



They include:

- Excessive wind that occurred as a direct result of a derecho;
- Silt and debris that occurred as a direct result of flooding;
- Excessive wind, storm surges, tornadoes, tropical storms, and tropical depressions that occurred as a direct result of a hurricane; and
- Excessive wind and blizzards that occurred as a direct result of a winter storm.

For drought, ERP assistance is available if any area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a drought intensity of:

- D2 (severe drought) for eight consecutive weeks;
- D3 (extreme drought) or higher level of drought intensity.

Lists of 2020 and 2021 drought counties eligible for ERP are available on the emergency relief website.

In general, payments for ERP Phase 2 are based on the difference in allowable gross revenue between the selected representative benchmark year(s) and the disaster year(s).

ERP Phase 2 program utilizes:

- Benchmark years: 2018, 2019
- Disaster years: 2020, 2021

Important Information Needed for the Application

Some simple prep-work will aid in the application process, including locating the supportive documentation that was used in creating the IRS Schedule F, as well as a copy of the FSA-1099G for the selected benchmark and disaster years. In addition, applicants should review the following definitions, and will certify these entries on the FSA-521:

Allowable gross revenue: determined using the table found on pages 4–5 of this fact sheet for the selected benchmark and disaster year(s) listed on the FSA-521, ERP Phase 2 Application

Benchmark year revenue: best represents a typical year of revenue for the operation, associated to the selected disaster year

****Adjusted Benchmark year revenue:** used when:

- Producer did not have any revenue in 2018 or 2019
- Producer did not have a full benchmark revenue year in 2018 or 2019
- The 2018 or 2019 benchmark year revenue was not representative due to a physical expansion or reduction in the operation capacity for the disaster year

Disaster year revenue: actual revenue from the year(s) the producer suffered an eligible loss.

Representative tax year: The tax year (2020, 2021 and 2022), IRS Schedule F associated with the selected disaster year revenue. The producer identifies:

- The 2020 or 2021 tax year used as the representative revenue year for the 2020 disaster year
- The 2021 or 2022 tax year used as the representative revenue year for the 2021 disaster year

Producers With Eligible Revenue Losses in Both Disaster Years:

- Both disaster years shall be selected on the same application
- The same benchmark year may be used for both disaster years
- Participants cannot use the same representative tax year for more than one disaster year
- Disaster year revenue must consist of consecutive years



Example: If a producer chooses the 2021 tax year as the representative revenue year for disaster year 2020, they must choose tax year 2022 for disaster year 2021.

Since the producer used his IRS Schedule F for 2021 as the representative tax year for the actual 2020 disaster year revenue, the years must be consecutive and can only be paired with one disaster year. Therefore, he must use 2022 as the representative tax year for the 2021 disaster year revenue.

Underserved Producers

Underserved producers, including beginning, limited resource, socially disadvantaged and veteran farmers and ranchers, will receive a higher ERP payment, at a percentage rate that will be determined at a later date.

To qualify for the higher payment percentage, eligible producers must have a CCC-860, Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification, form on file with FSA for the applicable program year.

Payment Limitation and Adjusted Gross Income

The payment limitation for ERP is determined by the person's or legal entity's average adjusted gross farm income (income from activities related to farming, ranching, or forestry). A person or legal entity, other than a joint venture or general partnership, cannot receive, directly or indirectly, more than \$125,000 in payments for specialty crops and \$125,000 in payment for all other crops under ERP (for Phase 1 and Phase 2 combined) for a program year if their average adjusted gross (AGI) farm income is less than 75 percent of their average AGI the three taxable years preceding the most immediately preceding complete tax year.

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The relevant tax years for establishing a producer's AGI and percentage derived from farming, ranching, or forestry related activities are:

- 2016, 2017, and 2018 for program year 2020;
- 2017, 2018, and 2019 for program year 2021; and
- 2018, 2019, and 2020 for program year 2022

Independent payment limitations for non-specialty/other crops and specialty/high value crops for each program year will remain, however only two program years, 2020 and 2021 will be applicable for ERP Phase 2.

Note: This is a change from ERP Phase 1. Phase 1 had separate payment limitations for each crop year 2020, 2021, and 2022.

During ERP Phase 2, payments received under ERP (Phase 1 and 2), will be applied by program year as follows:

Program year 2020 = 2020 ERP Phase 1, 2020 ERP Phase 2, Combined

Program year 2021 = 2021 ERP Phase 1, 2021 ERP Phase 2, Combined

Exception to Payment Limitation

If at least 75% of the person or legal entity's average AGI is derived from farming, ranching, or forestry related activities and the participant provides the required certification and documentation, as discussed below, the person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to:

- \$900,000 for each program year for high value/specialty crops; and
- \$250,000 for each program year for all other crops

The sale of equipment used to conduct farm, ranch or forestry operations and the provision of production inputs and services to farmers, ranchers, foresters, and farm operations is included in the average adjusted gross farm income, if the average adjusted gross farm income is at least 66.66 percent of the average AGI of the person or legal entity. For legal entities not required to file a federal income tax return, or for persons and entities with no taxable income in one or more tax years, the average will be the adjusted gross farm income, including losses, averaged for the three taxable years preceding the most immediately preceding complete taxable year.

A new legal entity will have adjusted gross farm income averaged only for the years of the base period for which it was in business.

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. If such commonality exists, then the

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 farm income will 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.

To request the increased payment limitation, participants must file form FSA-510 complete with participant's certification their average adjusted gross farm income is at least 75% of their average AGI and a certification from a Licensed Certified Public Accountant (CPA) or Attorney that the participant meets the requirements. To learn more, visit the Payment Eligibility and Payment Limitations website.

Future Insurance Coverage Requirements

All producers who receive ERP payments, are statutorily required to purchase crop insurance, or NAP coverage where crop insurance is not available, for the next two available crop years, as determined by the Secretary. Participants must obtain crop insurance or NAP, as may be applicable:

- At a coverage level equal to or greater than 60% for insurable crops; or
- At the catastrophic level or higher for NAP crops

Coverage requirements will be determined from the date a producer receives an ERP payment and may vary depending on the timing and availability of crop insurance or NAP for a producer's particular crops. The final crop year to purchase crop insurance or NAP coverage to meet the second year of coverage for this requirement is the 2026 crop year.

For crops where no insurance policy is available, and ERP recipients are ineligible for NAP payments, due to exceeding the average Adjusted Gross Income (AGI) limitations, they must meet this requirement by either:

- Obtaining NAP coverage and paying the applicable NAP service fee as required above, regardless of ineligibility for NAP payment, or
- Purchasing Whole-Farm Revenue Protection (WFRP) crop insurance coverage, if eligible

If the crop is not eligible for NAP, then producers are required to purchase Whole Farm Revenue Protection (WFRP) crop insurance at a coverage level of at least 60%.

How to Determine Allowable Gross Revenue

Table 1 provides guidance for:

- Determining allowable gross revenue source
- What to include/exclude when determining allowable gross revenue

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PROGRAM	ERP PHASE 2	
SOURCE	ALLOWABLE REVENUE	EXCLUDE GROSS REVENUE
SCHEDULE F LINE 1C "Sales of purchased livestock and other resale items," or information that could be reported on Scheduled F	Sales of eligible crops purchased for resale that had a change in characteristic due to the time held, such as: A plant purchased at a size of 2 inches and sold as an 18-inch plant after 4 months CCC loan proceeds for eligible crops if elected to be treated as income in a prior year less the tax basis in year of repayment	Sales of livestock
SCHEDULE F LINE 2 Sales of livestock, produce, grains, and other products you raised or information that could be reported on a Schedule F	Sales of eligible crops grown in the United States and its Territories by the applicant Sales of eligible crops grown by the applicant resulting from value added through post-production activities that could have been reported on IRS Schedule F For example: - Strawberries into jam Sales of aquatic species that are grown: - As food for human or livestock consumption, - For industrial or biomass uses - As fish raised as feed for fish that are consumed by humans - As ornamental fish propagated and reared in an aquatic medium	Sales of animals and their by-products: - Animals for consumption by the owner, lessee, or contract grower - Eggs - Milk - Mink including pelts - Revenue from animals for show, sport, or recreational purposes - Wild free-roaming animals - Revenue from raised breeding livestock (Schedule 4797 Part 1, Column (d) or (g) or other information that could be reported on a Schedule F Sales of agricultural commodities resulting from value added through post-production activities if reported on Schedule C Commodities not grown in the U.S. and its territories.
SCHEDULE F LINE 3A "Cooperative distributions," Form 1099-PATR, or information that could be reported on a Schedule F	The amount of cooperative distributions directly related to the sale of eligible crops produced by the applicant such as: Per-unit allocations paid to patrons for gross grain sales	Distributions that are not directly related to the sale of eligible crops that are not produced by the applicant
SCHEDULE F LINE 4A "Agricultural program payments", Form 1099-G, or information that could be reported on a Schedule F	Benefits for eligible crops under the following agricultural programs: - Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Program - Biomass Crop Assistance Program (BCAP) - Loan Deficiency Payment (LDP) Program - Market Loan Gains (MLG)—repayment of Commodity Credit Corporation (CCC) loan less than the original amount - Market Facilitation Program (MFP) - Seafood Trade Relief Program (STRP) - For the disaster year only—Emergency Relief Program (ERP) Phase 1 payments issued to another person or entity for the applicant's share of an eligible crop, regardless of the tax year in which the payment would be reported to the IRS	Pandemic Assistance payments including, but not limited to: - Coronavirus Foods Assistance Program 1 (CFAP 1) - CFAP 2 - Cost-share assistance - Loss of buildings - Livestock portion - Pandemic Livestock Indemnity Program (PLIP) - Spot Market Hog Pandemic Program (SMHPP) Other programs: - Conservation Program Payments - Dairy Margin Coverage (DMC) Program - Marketing Assistance Loan (MAL)
SCHEDULE F LINE 5A - 5C "Commodity Credit Corporation (CCC) loans reported under election," Form 1099-A, or information that could be reported on a Schedule F	- CCC loans for eligible crops reported under election if elected to be treated as income and reported to IRS when all or part of the production is used as collateral to secure the loan - Forfeited CCC loans for eligible crops	

ERP PHASE 2		
SOURCE	ALLOWABLE REVENUE	EXCLUDE GROSS REVENUE
SCHEDULE F LINE 6 "Crop insurance proceeds and federal crop disaster payments" or information that could be reported on a Schedule F	- Crop insurance proceeds for eligible crops, <i>less administrative fees and premiums</i> Benefits for eligible crops under the following federal crop disaster payments: - Noninsured Crop Disaster Assistance Program (NAP) payments <i>less administrative fees and premiums</i>. - Benchmark Year Only - 2017 Wildfire and Hurricanes Indemnity Program (WHIP), 2018 & 2019 Wildfire and Hurricanes Indemnity Program (WHIP+), and Quality Loss Adjustment Program (QLA) - On-Farm Storage Loss Program (OFSLP) - Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP)—payments specific to aquaculture - Payments through grant agreements with FSA for losses of eligible crops - Grants from the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), and state program funds for the direct loss of eligible crops or the loss of revenue for eligible crops	- ELAP—payments specific to livestock and honeybees - Emergency Livestock Relief Program (ELRP) - Emergency Relief Program (ERP) Phase 1 Payments - Livestock Forage Disaster Program (LFP) - Livestock Indemnity Program (LIP) - Milk Loss Program - Disaster Year Only - Quality Loss Adjustment (QLA) Program - Tree Assistance Program (TAP) - Disaster Year Only - Wildfire and Hurricane Indemnity Program (WHIP/WHIP+)
SCHEDULE F LINE 7 "Custom hire (machine work) income," or information that could be reported on a Schedule F		Custom hire income
SCHEDULE F LINE 8 "Other income, including federal and state gasoline or fuel tax credit or refund," or information that could be reported on a Schedule F	Other revenue directly related to the production of eligible crops that the IRS requires the applicant to report such as but not limited to: Commodity specific income received from state or local governments	- Federal and State gas/fuel tax credits - Income from by-passed (unharvested) acres - Income from a pass-through entity such as an S Corporation or Limited Liability Company (LLC) - Certificate Exchanges - Net gain from hedging or speculation - Wages, salaries, and tips - Cash rent - Rental of equipment or supplies - Revenue earned as a contract producer

Note: An applicant is not required to have filed a Schedule F to determine allowable gross revenue. If an applicant did not file a Schedule F, the applicant will use the applicable federal tax form filed to determine allowable gross revenue in the same manner as if a Schedule F was filed.

For More Information

Additional USDA disaster assistance information can be found on farmers.gov, the [Disaster Assistance Discovery Tool](#), [Disaster-at-a-Glance fact sheet](#), and [Farm Loan Discovery Tool](#).

For FSA and Natural Resources Conservation Service programs, producers should contact their local USDA Service Center. For assistance with a crop insurance claim, producers and landowners should contact their crop insurance agent.

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