

## **Emergency Relief Program Phase 2**

### **What supporting documentation should I gather in anticipation of applying for ERP Phase 2?**

ERP Phase 2 is a certification-based program, producers can begin reviewing Schedule F (Form 1040); and Profit or Loss from Farming or similar tax documents for tax years 2018-2022, representing their applicable Benchmark Year and Tax Year for Disaster Year Revenue.

### **What is the difference between ERP Phase 2 and PARP? Is there a side-by-side tool to help me decide which program is best for me?**

There is! A side-by-side comparison fact sheet was created to help you navigate both programs and determine eligibility, it is available [here](#).

### **How will digital signatures be obtained if the producer does not have the means or proper equipment to complete an application electronically?**

Digital in-person signatures will be obtained in the county office electronically. The producer is not required to purchase or obtain any special electronic device.

### **How is revenue calculated for on-farm use of crops?**

Crops grown for on farm use such as forage fed to livestock have no sales resulting into revenue. However, there could be revenue that would still be considered allowable gross revenue as defined in the table located on the back of the FSA-521 form. Applicable program payments for disaster programs, ARC/PLC, NAP payments **less premiums and administrative fees**, crop insurance indemnities **less premiums and administrative fees**, could still be considered allowable gross revenue if the crop is considered eligible for ERP Phase 2. These sources of revenue would still be applicable in the calculation of allowable gross revenue if they were received in the applicable tax year, regardless of the producer's intent to commercially market the crop.

**Benchmark years 2018 and 2019 are stated to be a "typical" year of revenue for an operation. What if a producer had losses in those years, can they request an adjusted benchmark in that instance?**

No, Benchmark Year Revenue cannot be adjusted for producer losses. However, it **may** be adjusted by a producer if either of the following apply:

- The producer did not have a full year of revenue in 2018 or 2019
- The producer expanded their operation capacity in a disaster year for ERP Phase 2, compared to the 2018 or 2019 benchmark year

Producers are **required** to adjust allowable gross revenue for the Benchmark Year if there was a decrease in operation capacity in a disaster year as compared to the 2018 or 2019 Benchmark Year.

**Am I going to get the remaining 25% of my payment from Phase 1 under Phase 2?**

USDA will evaluate the remaining funding at the end of Phase 2, after all payments have been issued – however, it is not guaranteed nor anticipated the remaining 25% will be issued.

## **If a producer qualified as a beginning farmer in 2020 or 2021, but that expired in 2022 â?? will they still get the increased payment rate?**

Yes, Program Year (Disaster Year) reads the associated subsidiary file from 2020 or 2021.

## **Can the payment limitation rules be clarified?**

ERP Phase 2 has two program years, 2020 and 2021. Payment limitations for ERP are follows:

**Specialty/High Value crops:** \$125,000 by program year, can increase to \$900,000 by filing the FSA-510 form.

**Other crops:** \$125,000 by program year, may increase to \$250,000 by filing the FSA-510 form

Payments for the ERP program are combined by program year as follows:

- **2020 program year** = 2020 ERP Phase 1, and 2020 ERP Phase 2, combined
- **2021 program year** = 2021 ERP Phase 1, 2021 Phase 2, combined

## **Would Kelp grown and sold as feedstock for cattle be an eligible crop?**

Yes, it is an eligible crop.

## **How will deferred revenue and crop insurance proceeds be addressed?**

Revenue is based on tax year and is specific to each applicant. The revenue would go with the applicable tax year the applicant would have reported for tax purposes. Specifically, deferred revenue and proceeds from crop insurance will be considered

"allowable revenue" for ERP Phase 2 purposes in the tax year in which the revenue or crop insurance proceeds are reported to the IRS by the taxpayer. ERP Phase 2 is a producer certification-based program, specific questions on revenue reporting should be addressed with the producer's individual tax preparer. FSA cannot provide casual advice for how income could or should have been reported. The FSA-521 table contains what is considered allowable gross revenue.

## **Is there a tool to assist producers or accountants in determining Allowable Gross Revenue?**

Producers may use the FSA-521A worksheet or the ERP Excel tool to determine Allowable Gross Revenue.

## **Every operation changes (increases or decreases) capacity every year, is there a minimum threshold where a producer wouldn't need to calculate the change?**

There is no minimum threshold change. Producer is **required** to decrease the benchmark revenue and they **may** increase the benchmark.

## **Is honey an eligible crop?**

Yes.

## **Will producer resources be provided in other languages?**

Yes, once the rule is published resources will be provided in multiple languages. There may be a slight delay.

## **What happens when crops revenue is split between disaster years?**

The revenue would go with the applicable tax year the applicant would have reported for tax purposes.

### **What if I have losses in both disaster years, do I file two applications?**

Producer will file one application in the recording county and list all applicable disaster years.

### **I didn't file an acreage report for the disaster years 2020 or 2021, am I ineligible or will I have to pay a late-filed fee to be able to apply for ERP Phase 2?**

An acreage report is not required to file an application for ERP Phase 2. It is required to be filed in the linkage years.

### **Is hay sold for forage an eligible crop or ERP Phase 2?**

Yes.

### **I already filed an FSA-510 form under ERP Phase 1, can it be applied to Phase 2?**

Yes, if a producer filed an FSA-510 in Phase 1 for the same program year they are applying for under Phase 2.

### **Are all organic crops considered high value by default?**

Yes, all organic are high value if they were not already classified as specialty.

**Since there is a linkage requirement for ERP, does the crop have to be insurable for me to apply for assistance on my revenue loss?**

Crops that are not eligible for crop insurance or NAP are considered eligible for Phase 2. This is different than prior disaster programs which required a crop to be insurable or NAP eligible.

**Does linkage apply for non-insurable and crops that are not eligible for NAP?**

Yes. Producers are required to file an acreage report in the linkage years and must obtain Whole Farm Revenue Protection to meet linkage for crops that are NOT insurable or eligible for NAP.

**The instructions for the FSA-521A indicate to NOT include certain FSA program payments such as ERP-1, QLA, and WHIP in the Allowable Gross Revenue calculations. Aren't these payments subtracted from the ERP Phase 2 Payment itself?**

QLA, WHIP, and WHIP+ payments are included in the 2018 and 2019 benchmark revenue. Benchmark revenue is tied to the tax year. The 2020 QLA and 2020 WHIP+ program payments are automatically subtracted at the end of the 2020 crop year payment calculation.

**Are producers to exclude CFAP when calculating the Allowable Gross Revenue, even though the software will reduce CFAP from the ERP Phase 2 payment?**

Yes, CFAP 1 and 2 payments are excluded from Allowable Gross Revenue. To further clarify, if the producer applied for the 2020 disaster year, CFAP if received, would automatically be deducted from the ERP Phase 2 payment.

**If I grew blueberries and raspberries, but only the raspberries had damage for the disaster year, do I only need to meet linkage for the raspberries or do I need blueberry coverage as well?**

Producers are required to complete form FSA-522 and identify all crops that suffered revenue losses in whole or in part from qualifying disaster event(s) for the disaster year(s) for which they applied for ERP Phase 2 benefits (2020 and/or 2021). Crop insurance or NAP coverage is required for crops identified on FSA-522 for the next two available crop years (no later than 2026) to meet linkage requirements.

**Insurance Indemnities: Many producers received federal crop insurance indemnities that were less than their premiums for the applicable year. When completing the application and/or ERP Phase 2 Tool, would the producer enter a negative amount for the crop insurance indemnity, since their premiums were more than the indemnity received? Or would they just zero that portion out for revenue purposes?**

The table on the back of the FSA-521 for Schedule F, line 6 says to include “crop insurance proceeds less administrative fees and premiums” and “Noninsured Crop Disaster Assistance Program (NAP) payments, less administrative fees and premiums”. If premiums and fees are greater than the indemnity, the producer is to use the negative number in the calculation of allowable gross revenue. Example: Crop insurance indemnity received is \$1,000, however premium and fees paid are \$2,000 = (-\$1,000).

**Would crop insurance proceeds received for a crop I never intended to sell, such as Corn Silage be considered allowable gross revenue for ERP Phase 2, if it was received in my selected tax year?**

Yes. Crop insurance proceeds, less premiums and administrative fees, is considered allowable gross revenue according to the table on the reverse of the FSA-521. Corn silage is an eligible crop for ERP Phase 2. Therefore, any actual revenue received in the applicable tax year (benchmark or disaster year) would be included if it meets the criteria for allowable gross revenue, even though the eligible crop was never intended to be commercially marketed. If intentions changed and the crop intended for feed was sold, we would include revenue from the sale as well.

**The producer has Patron Dividends in 3a of the Schedule F. The producer indicates that most of the dividends are from seed and fertilizers purchases. Are seed and fertilizer purchases considered to be "directly related to the sale of eligible crops" and therefore should be included as allowable gross revenue? Or is the producer only looking for, "per-unit allocations paid to patrons for gross grain sales" as listed on the FSA-521?**

This should be limited to per-unit allocations paid to patrons for gross grain sales. The portion of the dividend the grower received from inputs purchased from the cooperative, such as seed or fertilizer, would be excluded from the allowable gross revenue.

**I applied for ERP Phase 2, and I grow insured crops. Is an acreage report filed with crop insurance sufficient to meet the linkage requirements or must I also file an FSA-578 with FSA?**

You must file an FSA-578 with FSA as part of the linkage process.

**Husband and Wife farm on a 50/50 basis, but file taxes as "Married, filing jointly". Should the husband and wife each be claiming 50% of the revenue identified on their Joint Schedule F?**



Producers who file or would be eligible to file a joint tax return will certify their allowable gross revenue based on what it would have been had they filed taxes separately for the applicable year.

## **We are looking for clarification as to when payments will be processed and received for ERP Phase 2, we have heard there is a \$2,000 maximum payment?**

ERP Phase 2 application software has been updated to allow the maximum initial payment amount of \$2,000 minus any ERP Phase 1 gross payments per disaster year be processed. The remaining payment, if applicable, will be processed after the June 2, 2023, signup deadline.

## **Does ERP Phase 2 cover shallow and/or quality losses for eligible crops?**

Yes. ERP Phase 2 payments are based on the difference in allowable gross revenue between a benchmark year, intended to represent a typical year of revenue for the producer's operation, and the applicable disaster year. The allowable gross revenue information required from producers to apply for ERP Phase 2 will be a self-certification by the producer or authorized representative.

For ERP Phase 2, "allowable gross revenue" refers to annual gross farm income before expenses and includes sales of eligible crops and certain government farm program payments directly related to eligible crops.

Producers have the choice of two benchmark years (2018 and 2019) to utilize as the threshold to best reflect the loss experienced in the disaster year.

## **Can a dissolved entity file an application for ERP Phase 2?**

Valid signature authority **is required** to complete an application.

Additionally, if the producer is a general partnership or joint venture that was dissolved, all members of the general partnership or joint venture at the time of dissolution, or their representatives must sign the application and required forms.

### **Does PRF-RI cover the linkage requirement for applicable ERP eligible crops?**

Yes, if PRF-RI is obtained at the 60/100 coverage level, or greater for the eligible crop.

### **What are the linkage requirements for land that is newly considered high-risk?**

Linkage is tied to the crop and county that received the ERP payment. Producers who received an ERP payment on acreage classified as standard will have to meet the minimum 60 percent coverage requirement on all acreage classified as standard. Producers who received an ERP payment on high-risk acreage will have to meet the requirement on all acreage classified as high-risk.

- For example, if a producer received an ERP payment on standard rated soybean acreage, they would not be subject to the minimum 60% coverage on soybean acreage insured in newly classified high-risk areas. They would be subject to the minimum coverage on all soybean acreage remaining standard rated.
- If a producer received an ERP payment on high-risk rated soybean acreage, the newly classified high-risk acreage would need to meet the requirement if insured as soybeans.

### **Would I request an adjusted benchmark year revenue on the FSA-521, if I farmed as an individual 2018 and/or 2019, and then switched to an entity in 2020/2021?**

Yes. The new entity would be required to establish an adjusted benchmark year revenue because the entity began farming in 2020 or 2021 and did not have actual allowable gross revenue in a benchmark year.

**Producers are to submit one FSA-521 for their entire operation nationwide in the recording county. I farm both as an individual and as a sole member of Farmers LLC. I file my acreage reports with FSA and carry crop insurance under both operation names, but file taxes as an individual. Would I file one or two FSA-521s for the disaster year? How would linkage be met?**

The application should be filed in the name of the individual or entity that is entitled to an ownership share and is at risk in the crop, production, and marketing associated with the agricultural production of crops. If the “applicant” can prove they had a risk in the eligible crop(s) and that they received the allowable gross revenue, then that revenue can be attributed to the applicant, regardless of how the taxes were filed.

The applicant would need to obtain crop insurance coverage in the same name as the individual or entity listed on the FSA-521 and FSA-522 and file an accurate acreage report during the linkage years. Only one can have risk, this also applies to linkage.