

# Emergency Relief Program (ERP)

## Disaster Recovery Assistance for Commodity and Specialty Crop Producers



### Background

On September 30, 2021, President Biden signed into law the Extending Government Funding and Delivering Emergency Assistance Act (P.L. 117-43), which includes \$10 billion in assistance to agricultural producers impacted by wildfires, droughts, hurricanes, winter storms, and other eligible disasters experienced during calendar years 2020 and 2021. The Farm Service Agency (FSA) has also made payments to ranchers impacted by drought and wildfire through the first phase of the **Emergency Livestock Relief Program (ELRP)**. ERP is another relief component of the Act.

### Overview

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 will be administering emergency relief to row crop and specialty crop producers through the following two-phased process:

- Phase 1 will leverage existing **Federal Crop Insurance or Noninsured Crop Disaster Assistance Program (NAP)** data as the basis for calculating initial payments.
- Phase 2 will be intended 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 1

Eligible crops include all crops for which federal crop insurance or NAP coverage was available and a crop insurance indemnity or NAP payment was received, except for crops intended for grazing. Qualifying natural disaster events include wildfires, hurricanes, floods, derechos, excessive heat, winter storms, freeze (including apolar 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, tornados, 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; or
- 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**.

### For More Info

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**.



## How to Apply – Phase 1

To simplify the delivery of ERP Phase 1 benefits; FSA will send pre-filled application forms to producers whose crop insurance and NAP data is already on file because they received a crop insurance indemnity or NAP payment. This form includes eligibility requirements, outlines the application process, and provides ERP payment information. Producers will receive a separate application form for each program year. Receipt of a pre-filled application is not confirmation that a producer is eligible to receive an ERP Phase 1 payment. Producers will need to return completed and signed ERP Phase 1 applications to their local FSA county office.

Producers must also have the following forms on file with FSA within a subsequently announced deadline as determined by the Deputy Administrator for Farm Programs:

- Form AD-2047, Customer Data Worksheet
- Form CCC-902, Farm Operating Plan for an individual or legal entity
- Form CCC-901, Member Information for Legal Entities (if applicable)
- A highly erodible land conservation (sometimes referred to as HELC) and wetland conservation certification (Form AD-1026 Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification) for the ERP producer and applicable affiliates.

Most producers, especially those who have previously participated in FSA programs will likely have these required forms on file. However, those who are uncertain or want to confirm should contact their **local FSA county office**.

In addition to the forms listed above, certain producers will also need to submit the following forms to qualify for an increased payment limitation or payment rate.

- Form FSA-510, Request for an Exception to the \$125,000 Payment Limitation for Certain Programs.
- Form CCC-860, Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification, for the applicable program year.

## How Payments are Calculated – Phase 1

ERP Phase 1 payments for crops covered by crop insurance will be prorated by 75 percent to ensure that total ERP payments, including payments under ERP Phase 2, do not exceed the available funding. ERP Phase 1 payments for NAP-covered crops will not be prorated due to the significantly smaller NAP portfolio that by its nature only covers smaller acreages and specialty crops that are not covered by crop insurance.

RMA and FSA will calculate ERP Phase 1 payments based on the data on file with the agencies at the time of calculation.



The ERP Phase 1 payment calculation for a crop and unit will depend on the type and level of coverage obtained by the producer. RMA and FSA will calculate each producer's loss consistent with the loss procedures for the type of coverage purchased but using the ERP factor in place of the coverage level. This calculated amount would then be adjusted by subtracting out the net crop insurance indemnity or NAP payment, which is equal to the producer's gross crop insurance indemnity or NAP payment already received for those losses minus service fees and premiums.

## ERP Factor Tables

ERP factor tables can be found below and on the [emergency relief website](#):

Crop Insurance Level	ERP Factor (Percent)
Catastrophic coverage	75
More than catastrophic coverage but less than 55 percent	80
At least 55 percent but less than 60 percent	82.5
At least 60 percent but less than 65 percent	85
At least 65 percent but less than 70 percent	87.5
At least 70 percent but less than 75 percent	90
At least 75 percent but less than 80 percent	92.5
At least 80 percent	95

NAP Coverage Level	ERP Factor (Percent)
Catastrophic coverage	75
50 percent	80
55 percent	85
60 percent	90
65 percent	95

Because the amount of loss due to a qualifying disaster event in calendar years 2020 and 2021 cannot be separated from the amount of loss caused by other eligible causes of loss as defined by the applicable crop insurance or NAP policy, the ERP Phase 1 payment will be calculated based on the producer's loss due to all eligible causes of loss.

## Historically Underserved Producers

The ERP payment percentage for historically underserved producers, including beginning, limited resource, socially disadvantaged and veteran farmers and ranchers will be increased by 15% of the calculated payment.

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 Phase 1 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.



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

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

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 Phase 1 payments, including those receiving a payment based on tree, bush, or vine crop insurance policies, 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.

## Emergency Relief – Phase 2 (Crop and Livestock Producers)

The second phase of both crop (ERP) and livestock (ELRP) programs will fill gaps and cover producers who did not participate in or receive payments through the existing programs that are being leveraged for Phase 1 implementation.

All ERP information and resources will be updated on the emergency relief website as Phase 2 policies and provisions are available.