

APPENDIX TO FORM FSA-524
EMERGENCY RELIEF PROGRAM (ERP) 2022
TRACK 2 APPLICATION

1. Overview

Track 2 will provide payments for eligible crop losses through a revenue-based approach using data provided by producers. To be eligible for Track 2, a producer must have experienced a decrease in disaster year revenue, as compared to a benchmark year revenue, due to necessary expenses associated with losses of eligible crops due in whole or in part to a qualifying disaster event that occurred in the 2022 calendar year.

2. Statutory and Regulatory Authority

ERP 2022 is authorized by the Disaster Relief Supplemental Appropriations Act, 2023 (Pub. L.117-328), signed on December 29, 2022, for necessary expenses related to losses of revenue, quality or production losses of crops, 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 year 2022.

3. Explanation of Terms

Benchmark Year – is intended to represent a typical year of revenue for the farming operation. Producers may use one of the following options to represent a typical year of revenue without losses: (1) the 2018 or 2019 tax year allowable gross revenue (for the tax year option), or (2) expected revenue from all eligible crops prior to a qualifying disaster event in calendar year 2022 (for the expected revenue option).

Benchmark Year Revenue – (1) For producers who elect the tax year option, the producer's allowable gross revenue received from all eligible crops for the 2018 or 2019 tax year, as elected by the producer; or (2) For producers who elect the expected revenue option, the producer's expected revenue from all eligible crops that could have been affected by a qualifying disaster event in calendar year 2022, crops prevented from being planted, crops in storage, and planted crops (including inventory and perennial crops) based on realistic projections to represent a typical year of revenue without losses due to disaster events.

Representative Revenue Year – is intended to represent the disaster year revenue for the farming operation. Producers may use one of the following options that best represents the disaster effects of the 2022 calendar year: (1) 2022 or 2023 tax year allowable gross revenue (for the tax year option), or (2) the actual disaster year revenue received from all crops that could have been affected by a qualifying disaster event in calendar year 2022 (for the expected revenue option).

Disaster Year Revenue – (1) For producers who elect the tax year option, the producer's allowable gross revenue received from all eligible crops for the 2022 or 2023 tax year, as elected by the producer; or (2) For producers who elect the expected revenue option, the producer's actual revenue received from all crops that could have been affected by a qualifying disaster event in calendar year 2022.

Specialty Crops – fruits, tree nuts, vegetables, culinary herbs and spices, medicinal plants, and nursery, floriculture, and horticulture crops. This includes common specialty crops identified by USDA's Agricultural Marketing Service at <https://www.ams.usda.gov/services/grants/scbgp/specialty-crop> and other crops as designated by the Deputy Administrator.

High Value Crop – (1) Any eligible crop that is not specifically identified as a specialty crop or listed in the definition of "other crop"; and (2) Any eligible crop, regardless of whether it is identified as a specialty crop or listed in the definition of "other crop," if the crop is a direct market crop (excluding crops sold for livestock consumption), organic crop, or a crop grown for a specific market in which specialized products can be sold resulting in an increased value compared to the typical market for the crops (for example, soybeans intended for tofu production), as determined by the Deputy Administrator.

Other Crops – cotton, peanuts, rice, feedstock, and any crop grown with an intended use of grain, silage, or forage, unless the crop meets the requirements of the definition of “high value crop.”

4. Options for Determining Benchmark and Disaster Year Revenue

Producers must choose between the following two options to determine their benchmark year and disaster year revenue:

- (1) Tax Year: The tax year option allows the use of tax records to find information needed to calculate allowable gross revenue. Producers who choose the tax option will select either 2018 or 2019 as the benchmark year and either 2022 or 2023 as their representative revenue year for the disaster year based on the year for which the revenue would be reported for the purpose of filing a tax return. 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. Producers cannot use the tax year option if they experienced a decrease in operating capacity during the disaster year, as compared to the 2018 and 2019 benchmark years, except as described in Section 5. In addition to Table 1, an optional ERP 2022 Application Tool and FSA-524-A worksheet is available at <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index> to help producers determine allowable gross revenue for the benchmark and disaster year if the tax year option was selected.
- (2) Expected Revenue: The expected revenue option allows the producer to certify to the revenue a producer reasonably expected to receive absent any disaster conditions and the corresponding actual disaster year revenue. Producers who choose the expected revenue option will select “Expected” for the benchmark year and “Actual” for the representative revenue year. The producer’s expected revenue must include the expected revenue from all eligible crops that could have been affected by a qualifying disaster event in calendar year 2022, crops prevented from being planted, crops in storage, and planted crops (including inventory and perennial crops). Expected revenue must be based on realistic projections that can be supported by acceptable documentation of expected inventory, acres, yield, and unit price. Revenue from all eligible crops that *could have been* affected by a qualifying disaster event in calendar year 2022 must be included in the actual disaster year revenue.

The expected revenue option is intended to be used by producers who did not have revenue in 2018 or 2019, experienced an increase in operating capacity compared to the 2018 and 2019 benchmark years, or find that the expected revenue option is more representative of their revenue in a normal year without a loss due to disaster events. Producers must use the expected revenue option if they experienced a decrease in operating capacity in the disaster year as compared to both the 2018 and 2019 benchmark years to accurately reflect their loss, except as described in Section 5. In addition to Table 2, and Table 3, an optional ERP 2022 Application Tool and FSA-524-B worksheet is available at <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index> to help producers determine expected and actual revenue for the benchmark and disaster year if the expected revenue option was selected.

5. Exception For Producers Who Applied for ERP Phase 2 and Selected 2022 as the Representative Revenue Year:

Producers who applied for ERP Phase 2 and selected 2022 as the representative disaster revenue year for losses due to qualifying disaster events in the 2021 calendar year must select the tax year option and use 2023 as their representative disaster year revenue to avoid compensating the same loss under multiple programs. Those producers will include the following in their allowable gross revenue, as applicable:

1. The value of DAFP-approved crops that do not have revenue directly from sales
2. An adjustment to benchmark year revenue to account for changes in operation capacity in the disaster year as compared to the benchmark year, or in cases where producers did not have revenue in 2018 or 2019.

Producers that do not meet this exception but have a change in operation capacity or have produced crops that do not have revenue directly from sales must use the expected revenue option.

6. Percentage of Expected Revenue from Specialty/ High Value Crops and Other Crops

Separate payment limitations will apply to payments for specialty and high value crops and other crops. For both the tax year option and the expected revenue option, producers must provide the percentage of their disaster year revenue that they expected to receive from specialty and high value crops and the percentage from other crops. The percentages must be based on what the producer would have reasonably expected to receive for each category in the disaster year if the qualifying disaster event had not occurred. The percentages attributed to specialty and high value crops and other crops must equal 100 percent.

7. Crop Insurance or NAP Coverage Certification

Producers must certify if all eligible acreage of eligible crops (including crops grown, prevented from being planted, and in storage or inventory in the disaster year) was covered by crop insurance or NAP for the purpose of determining the applicable ERP factor. Producers of eligible crops in storage may certify that the crops were covered by crop insurance or NAP only if all acres of the crops were insured at the time the crop was grown. For example, a grain bin may contain corn from both the 2021 and 2022 crop years. To be considered insured, all the corn must have been insured in the 2021 and 2022 growing seasons.

TABLE 1. Tax Year Option

Producers who choose to use the tax year will choose either 2018 or 2019 as their benchmark year and either 2022 or 2023 as their representative revenue year for the disaster year. Allowable gross revenue is based on the year for which the revenue would be reported for the purpose of filing a tax return, except as noted in Table 1.

Include Gross Revenue from the Following Sources:	Exclude Gross Revenue from the Following Sources:
Sales of eligible crops produced by the producer, which includes sales resulting from value added through post-production activities that were reportable on IRS Schedule F For example: • Strawberries into jam Sales of eligible 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 Eligible aquacultural species must be raised by a commercial operator and in water in a controlled environment	Sales of livestock, animal by-products, and any commodities that are excluded from eligible crops: • Animals for consumption by the owner, lessee, or other contract grower • Eggs • Milk • Mink including pelts • Revenue from animals for show, sport, or recreational purposes • Wild free roaming animals • Pollinators • 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 • Crops for grazing • Aquatic species that do not meet the definition of aquaculture • Timber • Cannabis sativa L. and any part of the plant that does not meet the definition of hemp
Sales of eligible crops a producer purchased for resale that had a change in characteristic due to the time held (for example, a plant purchased at a size of 2 inches and sold as an 18-inch plant after 4 months), less the cost or other basis of such eligible crops	Resale items not held for characteristic change
Cooperative distributions directly related to the sale of the eligible crops produced by the producer, such as patronage paid to producer for gross grain sales	Distributions that are not directly related to the sale of eligible crops that are not produced by the producer such as: • Patronage paid to a producer based on the amount of money borrowed and the interest paid • Dividend paid to a producer based on the services used or products purchased
Benefits for eligible crops under the following agricultural programs: • Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Program • Biomass Crop Assistance Program (BCAP) • Coronavirus Food Assistance Program (CFAP) – CFAP 1 and CFAP 2	Pandemic Assistance payments including but not limited to payments from: • Pandemic Livestock Indemnity Program (PLIP) • Spot Market Hog Pandemic Program (SMHPP)

- Emergency Assistance for Livestock, Honeybees, and Farm Raised Fish Program (ELAP) - payments for aquaculture crop(s) - Emergency Relief Program – Phase 1 and Phase 2 - Loan Deficiency Payment (LDP) Program - Market Loan Gains (MLG) - repayment of Commodity - Market Facilitation Program (MFP) - On-Farm Storage Loss Program (OFSLP) - Quality Loss Adjustment Program (QLA) - Seafood Trade Relief Program (STRP) - Wildfire and Hurricanes Indemnity Programs (2017 WHIP and WHIP+) For the disaster year only: ERP 2022 Track 1 payments issued to another person or entity for the producer's share of an eligible crop, regardless of the tax year in which the payment would be reported to IRS	Any pandemic assistance payments that were not for the loss of eligible crops or the loss of revenue from eligible crops, such as: - Cost-share assistance - Assistance for loss of buildings - Payments for livestock portion Other program payments, including but not limited to payments from: - Conservation program payments - Dairy Margin Coverage (DMC) Program - Marketing Assistance Loan (MAL)
CCC loans for eligible crops, if treated as income and reported to IRS For example: - 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 - 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	
FCIC crop insurance proceeds for eligible crops, minus the amount of administrative fees and premiums Proceeds for eligible crops under private insurance policies	Federal disaster program payments under the following programs: - Emergency Assistance for Livestock, Honeybees, and Farm Raised Fish Program (ELAP) for livestock and honeybees - Emergency Livestock Relief Program (ELRP) - Emergency Relief Program 2022 (ERP 2022) Track 1 - Livestock Forage Disaster Program (LFP) - Livestock Indemnity Program (LIP) - Milk Loss Program (MLP) - Tree Assistance Program (TAP)
Noninsured Crop Disaster Assistance Program (NAP) payments for eligible crops, minus the amount of service fees and premiums	
Payments issued through grant agreements with FSA for losses of eligible crops	
Grants from the Department of Commerce, National Oceanic and Atmospheric Administration and State program funds providing direct payments for the loss of eligible crops or the loss of revenue from eligible crops	
Other revenue directly related to the production of eligible crops that IRS requires the producer to report as income including but not limited to: Commodity-specific income received from state or local governments	- Federal and State gas/fuel tax credits - Income from a pass-through entity such as an S Corporation or Limited Liability Company (LLC)

• Net gain from hedging	• Certificate Exchanges • Custom hire income • Wages, salaries, tips, and cash rent • Employee Retention Credit (ERTC) • Paycheck Protection Program (PPP) • Rental of equipment or supplies • Revenue earned as a contract producer • Net gain from speculation
For producers who applied for the previous ERP Phase 2 and selected 2022 as the representative revenue year only: Value of the actual production for the following DAFP-approved crops that do not have revenue directly from sales due to the producer's ordinary operation: • All eligible crops grown for feed, to be stored, and fed to livestock on the farm • Any variety of grapes grown and used by the same producer for wine production • Fresh apples, cherries, peaches and plums grown and processed into cider and wine by the same producer The value will be based on: • Actual production of the crop • Published price for the crop based on the best data available for the crop such as NASS, RMA, NAP, and locally published prices based on sales for the applicable year The method for determining the value is the same for both the benchmark and disaster year	

TABLE 2. Expected Revenue Option

For producers who elect the expected revenue option, the producer's expected revenue must include the expected revenue from all eligible crops that could have been affected by a qualifying disaster event in calendar year 2022, including crops prevented from being planted, crops in storage, and planted crops (including inventory and perennial crops).

Expected Revenue Prior to Disaster Includes:	Calculating Expected Revenue:
Revenue from all eligible planted and prevented planted yield-based crops that could have been affected by qualifying disaster event in calendar year 2022. <i>Includes eligible crops that were planted in 2022 but not harvested until calendar year 2023.</i> <i>Excludes all crops with an intended use of grazing.</i>	Expected Acres × Expected Yield Per Acre × Expected Price <i>Example: Producer intended to plant 1,000 acres of soybeans in County A and 100 acres of corn in County B. The expected benchmark year revenue will be calculated for both the corn and the soybeans.</i> <i>Soybeans: 1,000 acres × 60 bushels/acre × \$12.00/bushel = \$720,000</i> <i>Corn: 100 acres × 200 bushels/acre × \$5.00/bushel = \$100,000</i> <i>The total expected benchmark year revenue for planted and prevented planted crops: \$720,000 + \$100,000 = \$820,000</i>
Revenue from all eligible perennial crops that could have been affected by a qualifying disaster event in calendar year 2022. <i>Excludes all crops with an intended use of grazing.</i>	Expected Acres × Expected Yield Per Acre × Expected Price <i>Example: Producer planted 1,000 acres of alfalfa and expected to harvest 3 tons per acre. The NASS published price for alfalfa hay in the county is \$200/ton.</i> <i>The total expected benchmark revenue for the alfalfa: 1,000 acres × 3 tons/acre × \$200/ton = \$600,000</i>
Value of all eligible inventory crops that could have been affected by a qualifying disaster event in calendar year 2022.	Total Inventory Prior to Disaster × Expected Price <i>Example: Producer has 100,000 pounds of red fish in inventory with a contract to sell the fish for \$3.50 per pound.</i> <i>The total expected benchmark year revenue for inventory: 100,000 pounds × \$3.50/pound = \$350,000</i>
Value of all crops in storage that could have been affected by a qualifying disaster event in calendar year 2022. <i>Includes eligible crops from 2022 and prior years in storage at the time of the disaster.</i>	Total Production in Storage × Expected Price <i>Example: Producer has 50,000 bushels of hard red winter wheat produced on the farm and stored in grain bins and the grain elevator is purchasing wheat for \$8.00 a bushel in the county.</i> <i>The total expected benchmark year revenue for crops in storage: 50,000 bushels × \$8.00/bushel = \$400,000</i>

TABLE 3. Actual Revenue

For producers who elect the expected revenue option, the producer's disaster year revenue is the actual revenue from all eligible crops that could have been affected by a qualifying disaster event in calendar year 2022.

Actual Revenue Includes:	Actual Revenue Excludes:
Revenue from sales of eligible crops	Crops for grazing
FCIC Crop insurance indemnities and NAP payments, less premiums and fees	Aquatic species that do not meet the definition of aquaculture
Indemnities for eligible crops under private insurance policies	Cannabis sativa L. and any part of the plant that does not meet the definition of hemp
The value of the eligible crop for crops not sold (such as crops in storage or inventory, or fed to the producer's livestock) <i>The same price used to calculate the expected revenue for the benchmark year must be used to calculate the actual disaster year revenue for crops in storage from 2021 or earlier that remain in storage at the time of application because ERP does not pay for market fluctuations for prior year crops.</i>	Timber
Payments issued for 2022 calendar year disaster losses, including but not limited to payments under: • ELAP for aquaculture crops • ARC • LDP • MLG • Net gains hedging • Grants from NOAA, and State program funds for the direct loss of eligible crops or the loss of revenue for eligible crops	Crop by-products such as cotton seed and corn stalks
Other revenue directly related to the production of eligible crops that IRS requires the producer to report as income	

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