

## Questions and Answers from the Tax Issues & Applying for ERP Phase 2 Benefits Webinar, May 1, 2023

### Q&A: USDA Farm Service Agency

1. **If the business was classified as a partnership in the benchmark years and now it is a sole proprietor since the other partner was bought out, then how do we calculate the benchmark?**

If actual benchmark year revenue is not available for the sole proprietor the applicant can use an adjusted benchmark year revenue. 3-ERP Par. 50. The FSA-521A can be used by the producer to calculate the adjusted benchmark. 3-ERP Par. 51.

2. **Where could I find the form online?**

All forms are available in English using the following: <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index>

3. **If 2021 Allowable Revenue for ERP is greater than 2018 or 2019, do we automatically not qualify? Or does more work need to be done to make this determination?**

The crop loss must result in a decrease of allowable gross revenue in the disaster year (2020 or 2021) as compared to the applicable benchmark year (2018 or 2019).

4. **Does any adjustment need to be made for crops produced which are ultimately fed to cattle owned by the same producer and not sold?**

At this time, if a producer fed an eligible commodity, rather than selling the production there could still be allowable gross revenue associated with that commodity. Example: If a producer received a crop insurance indemnity, or perhaps an eligible FSA program payment for that commodity, there would still be revenue associated with that commodity. If the revenue source meets the criteria of allowable gross revenue from the table on the back of the FSA-521 form, it would be included in the calculation.

5. **If you claim crop insurance on your return the instructions state to decrease the income for premiums and fees. If you have no crop insurance income, are you still supposed to decrease income by the premiums and fees?**

Yes, sometimes this will result as a negative amount to include as allowable gross revenue.

6. **On the form 521-A Section F, what numbers do you use for "expected yield per acre" and "expected price per unit?" In my case, it is soybeans.**

This is a producer certification based on what was expected to be planted/received absent a disaster event.

7. **If 2021 Allowable Revenue for ERP is greater than 2018 or 2019, do we automatically not qualify? Or does more work need to be done to make this determination?**

In general - if allowable gross revenue in the disaster year exceeds the benchmark year, there would be no payment generated for ERP Phase 2. I would encourage you to visit with your tax preparer and review the options available to you for disaster year revenue to ensure your calculations are correct prior to the end of signup.

8. **Fiscal year (12-1-2019 - 11-30-2020) is different than calendar year. Do I use our fiscal year tax return or report actual calendar year activity?**

Use the fiscal year tax return.

9. **Should CFAP money be included in Section 10 of the ERP Gross Rev Worksheet?**

CFAP is always excluded. It will not be included in any item of FSA-521-A.

10. **Will this webinar cover How the Pandemic Assistance Revenue Program Works for livestock producers?**

This webinar will only cover the Emergency Relief Program Phase 2.

11. **Can you apply for both program years (2020 and 2021)?**

Yes, and this will be on the same application for that participant.

12. **Do we need to fill out the revenue comparison for both 2020 and 2021, or one or the other?**

The producer will select their benchmark year (2018 or 2019) for each disaster year. The same benchmark year may be used for an applicant with losses in both disaster years (2020 and 2021). The revenue year selected for the disaster year can only be used one time. So for disaster year 2020, a producer may use 2020 or 2021 for the revenue year. For Disaster year 2021, they can use 2021 or 2022. For applicants applying for both disaster years, the revenue year for the disaster year may only be used one time and must be consecutive. Example: Disaster year the producer uses 2021 as the revenue year. The producer must use 2022 for the 2021 disaster year.

13. **Are hay/feed sales includable?**

If hay/feed is sold and there is revenue, yes, it is included.

**14. How about Coop Distributions related to fuel? They aren't directly related but are applicable to the crop operation.**

That revenue will be excluded, only revenue directly related to the sale of eligible crops is included.

**15. Is it possible to get a copy of this recording?**

The recording will be posted to [farmers.gov/taxes](https://farmers.gov/taxes) after the closed captioning has been completed.

**16. Do you have to fill out both forms 521 and 521A for phase 2**

No, FSA-521-A is not required. FSA-521 is required, as it is the application.

**17. Does this apply towards producing and selling hay?**

If hay/feed is sold and there is revenue, that is included.

**18. What about CFAP 3 Payments?**

CFAP payments are automatically taken off by the ERP software.

**19. If 2020 was the first year that we farmed, are we eligible to apply? How do we determine the benchmark?**

If you were a new producer in 2020, then you can still apply but you would need to complete the FSA-521A form in order to establish your benchmark year revenue.

**20. Can you use the same benchmark year for 2020 and 2021.**

You can use the same benchmark year for both disaster years 2020 and 2021

**21. If producers applied and received a payment on the Phase 1 of ERP, do they still need to reapply for the Phase 2 ERP now?**

Producers must apply for Phase 2 separately from Phase 1.

**22. Can you further explain benchmark and representative on p2?**

Benchmark is either 2018 or 2019 as selected by the producer that best reflect the disaster year selected. Representative year is selected, based on which year provides revenue that best represents the disaster year, either 2020 or 2021.

**23. Does any adjustment need to be made for crops produced which are ultimately fed to cattle owned by the same producer and not sold?**

Feed not sold and fed on farm, would be excluded.

**24. Is sale of any livestock included in this program?**

Sales of livestock are not eligible for ERP phase 2

**25. I see that you are supposed to back out hedging "gain". Do you also back out hedging "losses" that are listed on Schedule F income area?**

Losses are not included as income.

**26. Hay income from the sale of hay or straw bales, do you include on Line 8 or do you exclude it?**

If hay or straw is sold, it would be included as allowable gross revenue (this would typically be recorded in Line 2).

**27. Will you go through an adjustment example if the operation had an increase in operation size from benchmark year to disaster year. (ex. 2018 farmed 2400 acres, 2021 farmed 2600 acres?)**

The applicant can use FSA-521-A or the ERP Phase 2 Application Tool found at <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index>, to determine an adjusted benchmark year revenue. For this increase in acres the producer will list the 200 acres that have increased between 2018 and 2021 in Section F on FSA-521-A. The expected yields and price per unit will be determined based on verifiable amounts that the applicant can determine (maybe using previous year amounts, current year amounts from like acres, or information provided from reliable sources like an Ag Agent).

**28. Is the Emergency Relief Program Phase Two for crop producers only?**

Yes, livestock and animal by-products are excluded.

**29. What is the benchmark year?**

Benchmark Year is either 2018 or 2019, as selected by the applicant, which is the best representation of typical revenue for the disaster year selected.

**30. So how would you figure your change in capacity, such as if your acres were significantly higher/lower in 20 & 21 compared to benchmark year?**

Increases in acres from a benchmark year to a disaster year, would be an increase in operation capacity. The applicant should certify an adjusted benchmark year revenue. FSA-521-A or the

ERP Phase 2 Application Tool can be used to determine adjusted benchmark year revenue.

**31. Are the two programs mutually exclusive PARP, ERP2?**

Logan, ERP and PARP are different programs and the following link provides a useful comparison:  
[https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/emergency-relief-program/pdfs/fsa\\_parp\\_erp2\\_factsheet\\_23.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/emergency-relief-program/pdfs/fsa_parp_erp2_factsheet_23.pdf)

**32. Do you take out coop patronage dividends from the purchase of inputs used to grow the crop you are selling?**

Yes. If you purchased items such as fertilizer, seed that would be excluded. Allowable gross revenue only includes 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 would be excluded from allowable gross revenue.

**33. Can you use same benchmark year for 2020 and 2021?**

Yes, the same benchmark year (2018 or 2019) can be used for different disaster years.

**34. Will we be able to view the Q & A after the webinar is over?**

Today's Q&As will be posted to - <https://www.fsa.usda.gov/programs-and-services/emergency-relief/emergency-relief-faqs/index>

**35. Does this program apply to those who report their income on Form 4835, Farm Rental Income and Expenses, or is it only Form F income?**

Revenue does not have to be included on Schedule F, to be eligible for use in ERP Phase 2. The revenue must have been directly related to eligible crops grown by an eligible producer in the US or its Territories.

**36. Do I need to fill out ERP phase 2 to get this payment?**

If you had eligible losses for disaster year 2020 or 2021 for eligible crops that were not compensated through Phase 1, you would want to review the process and file for Phase 2 if you determine you are eligible for the criteria of Phase 2. Phase 2 uses a loss in disaster year allowable gross revenue in comparison to a benchmark year. The benchmark year being considered a representation of a typical year of revenue. We use the calculation of allowable gross revenue for both the benchmark year and the disaster year. Allowable gross revenue is calculated based on a table that is pictured on the back of FSA form FSA-521.

**37. Does the factor of 70% apply to the entire entity or can you look at individual ranches or fields as in a specialty crop type of operation?**

For ERP Phase 2, we calculate payments based on two categories. 1. High value/Specialty crops and 2. Other crops. Each have a separate payment limitation based on the disaster year. The 70% factor is used initially in both calculations.

**38. If I added acres between 2018 and 2021 how do I account for this increase in revenue**

You can complete an adjusted benchmark year revenue. This can be completed by using FSA-521-A, or the ERP Phase 2 Application Tool found here: <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index>.

**39. When looking at selecting a benchmark year of 2018 or 2019, between 2018 and 2019, the farmer increased his acreage by 50 acres so 2019 appears to be more representative. However, the grower suffered a full loss of one of his crops in 2019 (grower grows 2 fruit crops) so there was no income reported for that one crop. Is there a way to capture that in the adjustments or should we just use 2018 as the benchmark when both crops were harvested.**

Complete an adjusted benchmark year revenue. The applicant has the option to use 2018 or 2019, in this case, to build their adjusted benchmark year revenue. Adjusted benchmark year revenue can be determined using FSA-521-A or the ERP Phase 2 Application Tool at <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index>.

**40. What do they mean by on FSA Form 521 Part C 5 percent of expected revenue from specialty crops and high value crops? What crops are these?**

In general sales of value-added products can be included on Schedule F if they are a "De Minimus" or small portion. We indicated that less than 5% is what we have seen, but there is not a defined percentage in the internal revenue code. For ERP Phase 2 if it was included on schedule F as sales from eligible crops it can be included on ERP Phase 2.

**41. Are there instructions on how to choose the disaster year and benchmark year?**

FSA Handbook 3-ERP, <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index>, and ERP Phase 2 Fact Sheets provide information for disaster year and benchmark year.

**42. How do you know your area qualifies for a drought? Which office in Phoenix AZ to we call? Gila bend flooded and took out 40 acres and killed one of our employees and we were told back then that our area was not considered a disaster area.**

View these sites: [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/2022/fsa\\_erp\\_2020\\_factsheet\\_v2.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/2022/fsa_erp_2020_factsheet_v2.pdf) and [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/2022/fsa\\_erp\\_2021\\_factsheet\\_v3.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/2022/fsa_erp_2021_factsheet_v3.pdf)

- 43. Do you need to reduce crop insurance proceeds for crop insurance premiums? Instructions indicate crop insurance "less administrative fees and premiums.**

Yes, that is correct. Insurance premiums and fees will be subtracted from indemnity revenue from eligible crops.

- 44. What if Schedule F Line 1c is negative? Do we use the number in Schedule F 1a?**

No, use the negative number in 1c.

- 45. FSA 510 what if AGI is negative number (Had income loss for the year) I can not make 75 % for 3year average so CPA will not sign FSA 510**

FSA-510, for the optional payment limitation increase requires the form to be signed by a CPA or attorney.

- 46. Can someone please clarify - do we only compare 20 or 21 vs 18 or 19? I was under the impression we compare 2 sets of years, such as 18 vs 20 and 19 vs 21?**

Benchmark years include 2018 and 2019. Disaster years include 2020 and 2021. An applicant will select the disaster year, either 2020 or 2021, or both and will select separately a benchmark year either 2018 or 2019, which is based on which year best represents typical revenue in the disaster year prior to effects of a disaster. The same benchmark year can be used for each disaster year, or each disaster year can use a different benchmark year. Example. Disaster years 2020 and 2021 can both use 2018; or Disaster year 2020 could use 2018 and then Disaster year 2021 could use 2019.

- 47. Does this webinar apply to dairy milk sold?**

No, ERP Phase 2 does not include animal by-products like milk.

- 48. Is sale of equipment includable?**

Sale of equipment is not included as allowable gross revenue.

- 49. If your acres grew by 45%, do you just increase your benchmark revenue figures by 45%? Or how do you calculate the adjustment to use on your benchmark revenue?**

Technically, yes. However, we recommend using FSA-521-A or the ERP Phase 2 Application Tool to determine an adjusted benchmark year revenue.

- 50. 2018 was the trade war year and 2019 was a crop failure disaster year triggering WHIP+ payments in 2020 for the 2019 crop. How do we choose a benchmark year and where would WHIP+ payments count?**

Benchmark year should be selected by the applicant according to which year, either 2018 or 2019, best represent typical revenue for their disaster year selected. We realize that due to disasters or marketing conditions in benchmark years, there may not be a ideal selection for benchmark year.

- 51. We have an LLC as the operator- a married couple as the only partners - 50% each. On the Form 510, for a previous program, there was a payment for the LLC. The Form 510 was given to the couple to fill out for an additional \$125,000 payment. The wife's income does not meet the 75% farm income test, but the husband's income does meet the 75% farm income test. However, since the state they live in a community property state, the CPA would not complete the form. Since this is a federal program, does the community property state play a part in the additional payment qualifications? All states are not community property states. Thank you.**

Yes, community property states are recognized. It ultimately comes down to how they file income taxes. A CPA can split income from a joint tax return for the purpose of completing the FSA-510 and for certifying average AGI. When splitting income, the CPA must base their certification on what the AGI and/or farm AGI would have been had the individual filed under the status of "Married Filing Separately". If the CPA wont complete the form then they are ineligible.

- 52. Your examples seem to assume that the operation has been continuing for some time. New farmers might need a more relevant example.**

New farmers should complete an adjusted benchmark year revenue, if actual revenue does not exist in 2018 or 2019. The applicant can use FSA-521-A or the ERP Phase 2 Application tool to determine adjusted benchmark year revenue.

- 53. Is deferred crop insurance counted as income in benchmark year?**

Yes, if it was received in the benchmark tax year.

- 54. Can you apply for both PARP and ERP2?**

Please review the following comparison factsheet for ERP Phase 2 and PARP to help with the determination: [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/emergency-relief-program/pdfs/fsa\\_parp\\_erp2\\_factsheet\\_23.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/emergency-relief-program/pdfs/fsa_parp_erp2_factsheet_23.pdf)

- 55. Are there any considerations to extend the deadline to apply?**

There has been no decision to extend the deadline, at this time.

- 56. How do you choose your benchmark year**



Tax Year 2018 or 2019 will be used for benchmark year and will be selected by the producer based on the best representation of typical revenue for the producer's operation in a selected disaster year.

**57. What if a new producer did not have any revenue in 2018 or 2019?**

That producer can use an adjusted benchmark year revenue. An adjusted benchmark year revenue can be determined using FSA-521-A or the ERP Phase 2 Application Tool, which can be found at: <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index>

**58. Are organic crops considered "specialty or high value" crops?**

They are considered high value crops.

**59. Crop insurance proceeds minus premium is a negative number. Do we report zero or a negative number? Example: Proceeds \$1000. Premium \$3000. Net \$-2000"**

Yes, it is possible to include a negative amount in allowable gross revenue.

**60. Landlord on shares, can the landlord file for the program?**

If the landlord has a risk in growing an eligible crop that has suffered a loss due to and eligible disaster event, then yes. If not, no.

**61. Are premiums/fees to be deducted from crop insurance proceeds reported on FSA 521?**

Yes, crop insurance premiums and fees will be subtracted from indemnities.

**62. On the form 521-A section F, what numbers do you use for "expected yield per acre" and "expected price per unit?" In my case, it is soybeans.**

The applicant will determine, using verifiable documentation, how many acres were expected (maybe using an acreage report). Price per unit, again can be determined using verifiable documentation such as a previous or current year's sales receipt.

**63. If the county is not on the 'FAQ' sheets for 2020 or 2021, does the producer even qualify?**

In the case of drought, the crop loss would have to have been included in a drought county that had suffered a drought classified as at least D2 on the US National Drought Monitor for at least 8 consecutive weeks, to be considered eligible.

**64. Will there be additional information/webinars on how to complete adjusted benchmark year revenue?**

Q&As, Fact Sheets, and other resources are provided at <https://www.fsa.usda.gov/programs->

[and-services/emergency-relief/index](#)

**65. Is honey considered an animal by-product?**

No. Income from sales of honey may be included as allowable gross revenue.

**66. I thought we were supposed to reduce crop insurance proceeds by crop insurance premiums?**

Crop insurance premiums and fees should be subtracted from eligible crop insurance indemnity revenue.

**67. Please clarify the patronage dividends that should be included in the allowable revenue. Is it on all of the dividends earned from the cooperative which it seemed to be in Guido's example or is it only the dividends relating to the crop sold through the cooperative? (per unit allocations)**

Only include 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 are excluded.

**68. Also, are Northwest Farm Credit Services patronage dividends which are a return in interest paid allowable revenue?**

Distributions that are not directly related to the sale of eligible crops are not included as allowable gross revenue.

**69. For all government program payments, we use it as a it was reported on the Schedule F or do we have to adjust based on which disaster years the revenue was generated from? Ex. Received WHIP+ in 2021 but based on 2020**

Only Government Payments received from eligible crops should be included as allowable gross revenue, if listed on Page 3 and Page 4 of FSA-521 (ERP Phase 2 Application).

**70. If you had a significant amount of preventative planting in a benchmark year (2019), do you adjust the revenue using form 521A to better reflect a normal revenue year?**

No, prevented planting is not a eligible reason for completing an adjusted benchmark year revenue.

**71. Are early withdrawals from 401K's a factor in calculations?**

No.

**72. I might have missed this: We need to break out the percentages of specialty crops from non-specialty crops, correct? Parts C & D of the FSA-521?**

Yes, FSA-521 will ask the applicant to provide the percent of specialty/high value crops, and then the percent of non-specialty/other crops, based on the expected revenue in the disaster year being applied for by the applicant.

- 73. We have revenue reported in "other income" on the Schedule F. if we have wind towers on the property and they paid for crop damages while repairing the wind tower is that included or excluded? how about if we received an insurance payment for damage to our dryer? what is if there was damage to grain in that dryer incident?**

Insurance proceeds for damage to structures, such as wind towers, are not included as allowable gross revenue for ERP Phase 2.

- 74. Are Forms 521-A Sections required as part of the application or are they only support information for the producer to back up their application?**

No, FSA-521-A is not required, to complete FSA-521.

- 75. Question regarding crop insurance- do you deduct all crop insurance premiums from the crop insurance proceeds for the allowable income or only the premium withheld from the settlement? Can the crop insurance allowable income be a negative number (i.e., premium paid more than proceeds received?)**

All premiums and fees are subtracted from the indemnity. It can be a negative number.

- 76. Is there any time that you adjust crop insurance for premiums/fees? I see in the example there is no adjustment for premiums.**

Premiums and fees will be subtracted from crop insurance indemnities, which will give you the total to include as allowable gross revenue.

- 77. What if your operation grew from 500 acres on your benchmark years, to 2000 acres on the disaster year.**

You may request an adjusted benchmark (increase in operation) on the FSA-521. You would use form FSA-521-A or the ERP tool to calculate your adjusted benchmark allowable gross revenue.

- 78. Are crop insurance premiums and fees subtracted only if withheld or do cash premiums paid need to be deducted also?**

All premiums and fees are subtracted from the indemnity. It can be a negative number.

- 79. Benchmark and disaster years. Which years can be benchmark and which can be disaster and how do you decide what to elect?**

For ERP Phase 2 the benchmark years are 2018 or 2019. The disaster years covered by the program are 2020 and 2021. The program is certification based. You use the benchmark year that is most representative for a typical year of revenue for your operation.

**80. My first year farming was 2021, so what do I use as a benchmark?**

As a new producer, you would request an adjusted benchmark revenue. You would calculate that adjusted benchmark using form FSA-521-A or the ERP tool which is an excel document.

**81. What commodities are considered crops for grazing?**

Ineligible crops for ERP Phase 2 would be any that were intended for grazing.

**82. How do we determine if we had a disaster?**

I would suggest reviewing the producer agreement portion of the FSA-521 form. That identifies the loss criteria for the ERP Phase 2 program. It gives information on eligible crops, disaster events, and describes the loss in revenue criteria for the disaster year in comparison to the benchmark year.

**83. Is the benchmark year calculated at 70% of allowable gross revenue according to the ERP Rule?**

The 70% factor is currently part of the ERP Phase 2 calculation; this is applicable for other crops as well as the specialty/high value.

**84. Can year 2021 be used as benchmark year rather than 2019. The reason for this is because 2020 is a year that my farming operation was increased and 2021 is more related to 2020.**

The benchmark years are 2018 or 2019. If you had an increase in your disaster year from your benchmark years, you can request an adjusted benchmark. You would complete form FSA-521-A or the use the ERP Excel tool to calculate your adjusted benchmark year revenue.

**85. Will there be any assistance available for having taken “extraordinary measures “ (i.e. taking a 401k distribution with penalty fees) in order to make FSA payments?**

No. taking 401k distribution with penalty fees is not included in allowable gross revenue for ERP purposes.

**86. Is a producer eligible for ERP2 or PAARP if they were not farming in 2018 or 2019 but had disaster years when they started farming in 2020 and 2021?**

Yes. Please note the following ERP Phase 2 and PARR comparison factsheet for further

information: [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/emergency-relief-program/pdfs/fsa\\_parp\\_erp2\\_factsheet\\_23.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/emergency-relief-program/pdfs/fsa_parp_erp2_factsheet_23.pdf)

- 87. How about wind tower income included on Schedule E or elsewhere? Per ERP1, this was included as renewable farm income.**

This would be excluded. Only revenue directly related to the sale of an eligible crop will be included as allowable gross revenue.

- 88. Is this program applicable if a majority of the revenue in the benchmark years were sales from previous crop years?**

Benchmark year revenue is the amount of allowable gross revenue from tax year 2018 or 2019 that represents a typical year of revenue for the producer's operation. The revenue is tied to the tax year it was reportable in.

- 89. If we rented more ground in 2020 or 2021 versus 2019 (benchmark year), do I go to Section F to complete?**

For increase in operating capacity the FSA-521-A says to complete Sections C and D, and Sections E through G to calculate Expected Increase in Revenue.

- 90. Would hedging income for crops that is reported on the other income line be included as revenue for ERP Phase 2?**

No.

- 91. Do we need to calculate all four years to decide which years we need to use for the application?**

That is not required. You will file the application for the disaster year; you would select the benchmark year (2018 or 2019) that would best represent a typical year of revenue. It is a producer certification what representative revenue year to use for each disaster year. Disaster year 2020 - you can use 2020 or 2021 tax year. For Disaster year 2021, you can use 2021 or 2022. The representative tax year for the disaster year can only be used once and you must use consecutive years if you are filing for both disaster years.

- 92. Crop insurance income. Don't you subtract premium and fees from income to enter on the 521 form?**

Yes, premiums and fees would be subtracted from the indemnity.

- 93. Should crop insurance premiums and fees be subtracted from eligible crop insurance indemnity revenue in the year the revenue is taxed or in the year the premium was paid?**

Should be deducted from the tax year in which it was reported.

94. **The ERP Tool Version 3.1 doesn't appear to be pulling information from the Gross Rev Wrksht to the 2021\_521A tab. Is this an error in the sheet that needs to be corrected?**

There is a Version 4, that was posted on Friday (04/28/23).

95. **What happens if a producer has land in two different counties, but one county wasn't a declared 'disaster'? Also, what county do you choose then on the application?**

A disaster declaration is not a program eligibility requirement of ERP. To be eligible for assistance, producers must have suffered a crop loss because of a qualifying disaster event or related condition that resulted in a decrease in revenue.

96. **How do you determine if grants are includable or excludable?**

Only grants for the direct loss of eligible crops or the loss of revenue for eligible crops are included.

97. **If applying for both years as a disaster year (2020 and 2021), do the benchmark years need to be different?**

No, the same benchmark year can be used for both disaster years. (Different benchmark years can be used, if chosen, but not required).

98. **Are 2 separate applications needed for 2020 and 2021 disasters when using just 2018 as a comparison for both disaster years?**

No, both disaster years will be completed on the same ERP Phase 2 Application (FSA-521).

99. **Are food grade soybeans for human consumption considered a high value crop?**

Yes, this would be high-value (example, tofu or edamame)

100. **How much of a loss do you need to show to qualify?**

Due to the various factors included in the payment calculation, it would be challenging to calculate the payment unless an application is completed. However, the FSA County Office does have the formula for calculating an ERP Phase 2 payment, so the producer could utilize that if they chose to do so.

101. **With all this information is there any way to calculate a payment?**

Handbook 3-ERP Par. 85 provides the full payment calculation.

102. **On Form 521 can I ONLY apply for either 2020 OR 2021 or can I apply for both years on the one Form 521? Both years were disasters and I had losses both years.**

You can apply for both disaster years 2020 and 2021 on the same application (FSA-521).

103. **Where do I get the FSA form 521 and form 521-A, and 510?**

All forms may be found on the following website: <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index>

104. **How do you decide what year to use for benchmark year and disaster year? can you use 2018 for both disaster year 2020 and 2021?**

The applicant would select their benchmark year, either 2018 or 2019, based on the year that best represents typical revenue for the disaster year they select, not including the effects of a disaster.

105. **What if farmer was divorced? Benchmark years reflected joint farm operation in general partnership with ex. reported on 1065. Disaster years reflect 100% of acres on Schedule F since can't have single partner partnership.**

If the acres, or any tangible items have been removed from the operation, due to that divorce, then an adjusted benchmark year revenue will be completed to account for the decrease in operation capacity.

106. **What if producer is a NEW farmer; i.e. was not a producer in 2018/2019, but was a producer in 2020/2021? Is there a regional benchmark to which they could compare and perhaps be eligible?**

The applicant will complete an adjusted benchmark year revenue. Adjusted benchmark year revenue can be determined using FSA-521-A or The ERP Phase 2 Application Tool, which can be found at: <https://www.fsa.usda.gov/programs-and-services/emergency-relief/index>

107. **Are there exceptions to the 510 form if they don't meet the testing requirements but generate all their income from the farm? Ex. an NOL carrying over from prior years.**

No. The NOL carryover is a common tax strategy and may result in an applicant's ineligibility for the exception to the \$125,000 payment limitation.

- 108.

109. **Is the ERP 2 payment just the difference of the benchmark year to the disaster year?**

In general, 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.

110. Our county is listed for drought, but our office said we did not qualify? Was that perhaps wrong? Can I still apply for ERP round 1?

You can still apply for ERP Phase 2, until June 2, 2023. The signup deadline for ERP Phase 1 has passed, so no, you cannot apply for ERP Phase 1 at this time. The COC will make the determination of eligibility based on an eligible disaster event. Links to counties identified as eligible can be found here: [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/FactSheets/2022/fsa\\_erp\\_2020\\_factsheet\\_v2.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/FactSheets/2022/fsa_erp_2020_factsheet_v2.pdf) or [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/FactSheets/2022/fsa\\_erp\\_2021\\_factsheet\\_v3.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/FactSheets/2022/fsa_erp_2021_factsheet_v3.pdf)

111. **Why does the gross revenue worksheet not have a column for 2021**

FSA-521-A is used for both 2020 and 2021. The applicant will select the disaster year in Section A. If determining an adjusted benchmark revenue for both 2020 and 2021, the applicant will complete two FSA-521-As, one for 2020 and one for 2021.

112. **Are PRF and annual forage insurance payments included in crop insurance income?**

Yes, as long as that forage was sold and not grazed.

113. **Will a recording of this be available?**

Yes, however it may be up to 2 weeks for the recording to be available.

114. **With the payment calculation that one needs to reduce the benchmark year revenue by 30% and then reduce that number by the CFAP and WHIP payments, do you think there will be many payments made on this program? Or are we doing a lot of calculations for a small amount that will actually get a payment?**

3-ERP, Par. 85 provides the payment calculation.

115. **Could you explain please the relationship of Phase 1 and Phase 2 in the ERP? To my understanding, Phase 1 did not include uninsured crops but Phase 2 does? Also how to payments from Phase 1 relate to any potential Phase 2 payments?**

You are correct - Phase 1 only covered RMA- insured or NAP covered commodities that were paid an indemnity or NAP payment. As part of the ERP Phase 2 payment calculation, if a



participant applied for the same disaster year in Phase 2, the following deductions would occur: If a producer applied for Phase 1 2020, and also applied in Phase 2 - the Phase 1 2020 payment would be deducted. For disaster year 2021, ERP Phase 1 payments from 2021 and 2022 (if received) would be deducted from the 2021 ERP Phase 2 payment.

**116. Does a CFAP Subsidy count as a Government Payment and would need the 510 Waiver if it exceeds \$125K?**

CFAP payments received by a producer are automatically deducted from the calculated payment by the ERP software.

The FSA-510 would be completed if more than 75% of a producer's AGI is from farming, the producer may request to receive the optional payment limitation to increase the ERP Payment limit for other crops to \$250,000 and Specialty/High Value crops to \$900,000.

**117. Would hedging income for crops that is reported on the other income line be included as revenue for ERP Phase 2?**

No.

**118. If I filed Phase 1 can I file for Phase2**

Yes.

**119. Exclude the patronage that you receive from Farmers Union Oil for chemical purchases?**

Yes - this would be excluded from allowable gross revenue.

**120. Does anyone have any idea approximately how much of a payment the farmer could qualify for? How they are going to calculate the payment? when to expect a payment?**

For filed applications, producers are given an estimated calculated payment report. It is producer specific. Partial payments are being issued as applications are being processed and the factor is subject to change due to budget limitations.

**121. How will losses in 2022 be accounted for if we don't have our tax returns back for 2022?**

Producer may be able to calculate allowable gross revenue based on their farm records used in completing their tax return.

**122. What about EQIP for hoopouses to grow crops? Is that income included?**

Income from EQUIP for hoopouses is excluded from allowable gross revenue for ERP Phase 2 purposes.

123. **How do you pick your allowable revenue year? Ex: Grain income in 2021 crop year was deferred to 2022 but crop insurance proceeds and ag program payments were received in 2021?**

Disaster year would be selected based on when a crop has suffered a loss due to an eligible disaster event. Once a disaster year has been selected for an application, the benchmark year will be selected based on which year, either 2018 or 2019, best represents typical revenue for the disaster year selected, prior to the effect of a disaster event.

124. **If I subtract disaster year from benchmark, how is payment determined? Is it a percentage of total?**

The payment is calculated using the difference between a factored benchmark year revenue and disaster year, minus other payments and factors.

125. **Do you include patronage from coops such as Cenex, DFC, etc.?**

Distributions that are not directly related to the sale of eligible crops are not included as allowable gross revenue.

126. **Can a landowner that rents their land 1/3 - 2/3 so have income and expenses related to farming file this for disaster payments?**

Yes.

127. **Schedule F line 6, can this number be a minus number if the administrative fees and premiums are greater than the crop insurance proceeds?**

Yes.

128. **When is the deadline to File these forms at FSA offices. assuming that is where we turn these forms discussed in the Zoom mtg. Applications can be turned into any FSA Servicing Center.**

A complete application must be filed by the June 2, 2023, deadline.

129. **When do you fill in section F on FSA-521-A?**

If you are a new producer that does not have a benchmark year revenue or if you need to adjust your benchmark revenue due to a change in operation capacity.

130. **So, you would want to pick the highest year for benchmark between 2018 and 2019 and the lowest year between 20 and 21 for the disaster year?**

An applicant will select their benchmark year based on which year best represents typical revenue for the disaster year they select, prior to the effect of a disaster.

131. **If the producer started operation in 2020 what benchmark do you use or are they disqualified?**

The producer would use an adjusted benchmark year revenue, as a new producer.

132. **Are hedging "losses" to be excluded?**

Yes.

133. **When can producers expect payments to start being made?**

Payments are made when COC approves the application.

134. **Is Phase 1 subtracted from Phase 2 payment?**

Yes.

135. **If deferred crop insurance proceeds are claimed, do we deduct the crop insurance premium for the deferred indemnities if the expense was claimed in the prior year tax return?**

Deduct from the tax year it was reported.

136. **What if a producer had zero crop insurance proceeds but paid premiums during the year? Would the crop insurance portion of the revenue calculation be negative?**

Yes, they would be included as a negative amount.

137. **Is there any chance of the ERP factor of 70% getting increased so that it doesn't decrease the benchmark revenue as much?**

The factor is currently set at 70% but is subject to change based on available funding.

138. **If the entity for which you're applying has only existed since 2020, how would you apply?**

Use the FSA-521A to calculate a benchmark year revenue for a new producer.

139. **Can you file disaster for 2020 and 2022?**

Currently, ERP Phase 2 covers program years 2020 and 2021

140. **Does there have to be an official disaster declaration, and if so, what entity makes this declaration? (Federal government, state government, FSA, the farmer?)**

No disaster designation is required for ERP

141. **If we received a program year 2019 Whip+ payment in tax year 2021. It reads as if you pull that payment back into your 2019 benchmark year's gross income and exclude it in your 2021 revenue year. Is that correct?**

No, that is not correct. The benchmark years are 2018 and 2019. You do not select 2021 as the representative tax year for the benchmark revenue. Since the 2019 WHIP + payment was not received until 2021, it would not be included in your allowable gross benchmark revenue.

142. **So, patronage for purchasing inputs is not includable?**

Correct.

143. **If a farmer raises grain and feeds that grain to cattle is this considered value added or is that grain excluded?**

It is not considered value added. If there is no revenue from the sale of the grain the only income to include would be crop insurance indemnities or NAP payments received.

144. **Just thought of hay/feed. Do you file an ERP for this and a PARP for the livestock end?**

For livestock a producer would apply for PARP.

145. **Is CSP excluded from income for your benchmark year and disaster year?**

Conservation payments not included as allowable gross revenue

146. **How do you calculate what someone will get from the ERP Phase 2 Payment?**

3-ERP, Par. 85 provides the payment calculation.

147. **If you didn't qualify for phase 1 will you automatically not qualify for phase 2?**

No.

148. **On Line 4b what is Non-insured Assistance Program?**

The Noninsured Disaster Assistance Program (NAP). It provides assistance for losses to noninsured crops for eligible disaster events.

149. **When entering your crop insurance income for the applicable year - do you adjust for fees & premium? Or just use the total crop insurance proceeds? There is some correspondence that indicates you do adjust.**

Yes, fees and premiums are reduced from the indemnity.

150. **I know the ERP 2 does not include livestock but is there a similar program for livestock and poultry?**

PARP pays on livestock/poultry revenue losses.

151. **For crop insurance line. Do you count crop hail income and premiums?**

Yes.

152. **I was a new farmer in 2021. What do I use as a benchmark?**

FSA-521 A may be used to complete an adjusted benchmark for a new producer.

153. **For patronage dividends, if a bank is issuing a 1099-PATR for those that have loans with them, are those payments included?**

Patronage dividends are not included as allowable gross revenue.

154. **Is patronage dividend from a farm real estate loan revolving credit (compeer financial) considered direct from crop production and included for ERP?**

Patronage dividends are not included as allowable gross revenue.

155. **Are seed crops eligible for ERP? i.e. squash, watermelon, cucumber all grown for seed - commercial**

Yes.

156. **Is a sharecropper eligible for ERP 2?**

Yes.

157. **Can you speak to new producers in 2021 who had a loss due to drought and had no crop insurance and no base in 2018 or 2019 to use.**

New farmers should complete an adjusted benchmark year revenue if actual revenue does not exist in 2018 or 2019. The applicant can use FSA-521-A or the ERP Phase 2 Application tool to determine adjusted benchmark year revenue.

158. **Do we adjust our benchmark year to what it should have been if both 2018 and 2019 were losses so they are not true representations of an average year?**

An applicant cannot adjust their benchmark just because they do not agree with the benchmark revenue in 2018/2019. An adjustment applies only if the applicant is a new producer with no benchmark year revenue or if there was a change in operating capacity in the disaster year as compared to the benchmark year. 3-ERP, Par. 50.

159. **The 75% AGI requirement if looking at net farming income versus gross income from non-ag sources seems punitive if loss or NOL years. Looking for clarification on definition of farm/non-farm income.**

The loss years income does have a negative impact on the AGI calculation. You should include the negative number in the calculation.

160. **If I had \$200,000 of crop insurance premiums on my 1099 and premiums paid during the year of \$50,000 do I use \$150,000 or the \$200,000 reported on line 6?**

Use crop insurance indemnity minus premiums and fees. In this scenario, \$150,000 is the correct amount.

161. **In filling out form. the disaster year is selected how when does one form work for both 2020 and 2021**

Part C is for the 2020 disaster year and Part D is for the 2021 disaster year.

162. **Can you go over what is excluded from disaster year for ag program payments? All WHIP and all CFAP payments are excluded. Am I correct on that for year 2020.**

For the 2020 disaster year, the ERP software will automatically deduct the CFAP and WHIP+ payments.

163. **If I buy a business in farming am I allowed to use their returns for historical or do I add myself?**

A producer must own a share and risk in the crop producer to be eligible. If you are a new producer and do not have a benchmark revenue and adjusted benchmark revenue may be

calculated by using the FSA-521A.

164. **When will the payment be made?**

When COC acts on a complete application.

165. **Is ERP Phase 2 intended for those that were not insured?**

ERP Phase 2 is intended to fill in gaps in assistance from Phase 1, which included uninsured and/or shallow losses not compensated under Phase 1.

166. **We also had some vineyard/hazelnut acreage come into production while removing other permanent crops. Is there someone we can call to ask for guidance?**

Your FSA Service Center may be able to assist or direct you to the proper contact.

167. **Is there Spanish support?**

ERP Forms are available in Spanish

168. **I didn't hear my question answered about the community property states, please as it pertains to Form 510.**

The FSA-510 is completed based on how you file your income taxes. Community property states are recognized. A CPA can split income from a joint tax return for the purpose of completing the FSA-510 and for certifying average AGI. When splitting income, the CPA must base their certification on what the AGI and/or farm AGI would have been had the individual filed under the status of "Married Filing Separately".

169. **Is the PARP on a calendar year or a tax year?**

PARP is based on calendar year. ERP is based on tax year.

170. **Can you apply for PARP and ERP 2?**

Yes

171. **Is hay that is sold to other people included in both benchmark year and disaster year as income?**

Hay is an eligible crop and any revenue associated may be included as allowable gross revenue in both the benchmark and disaster years.

## Q&A: National Farm Income Tax Extension Committee

1. **What if you don't have a schedule F. We are incorporated and are an S corp.**

Pull the needed info from your records.

2. **How do you report deferred insurance? Is it the year the money is received or the year it counts toward income on the schedule F?**

These are reported and calculated in the year reported on the tax return, not the year of production.

3. **Do you report crop insurance in the year received or in the year claimed on the tax return. Farmers can elect to defer so wondering what year you consider as income for ERP2 and PARP Payment.**

Year claimed on the return.

4. **Which crop insurance income should we be using? What we received for that calendar year or what we are claiming on the schedule f, in which we will pay taxes on? It is common to push crop insurance payments into the next year for tax liability management.**

You are including what is included on that year's schedule F.

5. **Does this program apply to honeybees?**

Yes, honey is a specialty product.

6. **1120 Corp, not S apply?**

1120 Corp is the "farmer", I think it is eligible depending on size. This is more a USDA question.

7. **Is CSP income from NRCS taken out of income because it say conservation income is not used also is water bank and CRP income removed?**

Conservation payments not includible.

8. **What if a cash-basis producer received cash income from deferred grain contracts during 2020 but did not actually farm during 2020? Is the producer eligible?**

Use the year in which it was reported on the tax return.



To be eligible a producer must have suffered a qualifying disaster event for an eligible crop that resulted in a decrease in revenue during calendar year 2020 and 2021.

**9. Is this webinar for farmers with food products not livestock?**

Livestock producers had ELRP.

**10. Must we separate the amounts off 1099-G into Line 4 and Line 6; as the tax program automatically puts them in line 4 from the 1099-G?**

One should separate disaster payments from other government payments. The reason being that disaster payments can be deferred to the subsequent year if the farmer qualifies for such a deferral. Therefore, "gross farm income" would vary dependent upon the deferred amount.

**11. What they mean by on FSA form 521 part C number 5 percent of expected revenue from specialty crops and high value crops what crops are these?**

In general sales of value-added products can be included on Schedule F if they are a "De Minimus" or small portion. We indicated that less than 5% is what we have seen, but there is not a defined percentage in the internal revenue code. For ERP Phase 2 if it was included on schedule F as sales from eligible crops it can be included on ERP Phase 2.

**12. Line 3a & Line 3b : We have crop sales 3a but we deferred contract dollar amounts from income and put on the next year or we put contracts in previous year. What amount does a person use? 3a is \$1,149,444 and 3b is \$34,434?**

The allowable gross revenue will be based on the year for which the revenue would be reported for the purpose of filing a tax return. In this case, the amount in 3a reports deferrals into the subsequent tax year. This decision is made by the farmer taxpayer in agreement with the cooperative's policy.

**13. My cost basis exceeds my sales on schedule F. Should my gross sales be shown a zero on the application?**

The ERP software will allow for negative allowable gross revenue entry. It is assumed that this question refers to lines 1b and 1c with a result of a negative number on line 1c. If line 1c is reported as zero, this distorts gross farm income from grains as adjusted and found on line 9 of Schedule F. Thus, if we understand the question correctly, line 1c should be reported as a negative number in this case to prevent the overall distortion.

**14. It looks like crop insurance premiums are to be deducted from crop insurance proceeds. Not done in the example. For Coop distributions the instruction indicate per unit retained rather than the full patronage dividend. Again, the example does not appear to separate this. Am I**

**reading the instructions properly on these two items?**

Generally, the crop insurance 1099 MISC is reported as the gross amount. Per the instructions for ERP2, there is an adjustment for premiums and fees which results in a “net crop insurance” amount. The example was simplified for illustration purposes. Depending on how the accounting was done for the benchmark and disaster years, an adjustment might need to be made.

**15. Does this example have an estimated payment before any potential factors?**

No. An estimated payment was not calculated because the total number of applications and total program dollars available are unknown. The general payment calculation is:

- Benchmark Year Revenue (2018, 2019, or adjusted) multiplied by
- ERP Factor TBD, minus
- Disaster Year Revenue (2020, 2021, or 2022), minus
- Gross ERP Phase 1 Payments, minus
- Net Disaster Payments for similar losses, multiplied by Percent of Expected Revenue from Specialty and High Value or from Other Crops, as applicable.

**16. where or how did you determine that the \$125k threshold was not exceeded? The difference between benchmark and disaster was \$171,500**

The \$125,000 threshold is a program payment limitation (e.g. ARC payments) not the difference between the benchmark and disaster year dollars.

**17. In your example the benchmark year revenue was \$539,000 and the disaster year revenue was \$367,500. Assuming no previous CFAP/ERP payments, how is the ERP2 payment calculated? Does the grower expect to receive the difference between these 2 figures? \$171,500? or some other calculation?**

This is more in FSA’s wheelhouse. We understand that two unknowns need to be determined as to the amount of ERP2 payments, 1) the number of applications and 2) the dollars available for ERP2 payments. It is understood ERP2 isn’t to make producers “whole” but to help, thus it is highly unlikely that the difference between the benchmark and disaster year equals the payment.

The general payment calculation is:

- Benchmark Year Revenue (2018, 2019, or adjusted) multiplied by
- ERP Factor TBD, minus
- Disaster Year Revenue (2020, 2021, or 2022), minus
- Gross ERP Phase 1 Payments, minus
- Net Disaster Payments for similar losses, multiplied by Percent of Expected Revenue from Specialty and High Value or from Other Crops, as applicable.

**18. In the example, how much would the farmer get? Also, on FSA-521 how are items 12-14 computed?**

An estimated payment was not calculated because the total number of applications and total program dollars available are unknown. However, the general payment calculation is:

- Benchmark Year Revenue (2018, 2019, or adjusted) multiplied by
- ERP Factor TBD, minus
- Disaster Year Revenue (2020, 2021, or 2022), minus
- Gross ERP Phase 1 Payments, minus
- Net Disaster Payments for similar losses, multiplied by Percent of Expected Revenue from Specialty and High Value or from Other Crops, as applicable.

**19. Will you be posting your spreadsheet comparing Schedule F entries to application entries?**

No, that was only a tool for example preparation and illustration.

**20. If we took out a grain loan for \$150,000 but only claimed \$100,000 as income I am understanding that we will only include the \$100,000 that would be included on the app is that accurate? Then if we also repaid \$50,000 of that loan in the same year would we reduce our "payment" amount by that \$50,000?**

Report what is on the Schedule F as income subject to tax.

**21. Why do you include the fertilizer refund in your example?**

This doesn't seem to relate directly to grain income. This was included in error. See Item 15 instructions of 521-A (line 8 of other income from Schedule F)

**22. How do you report income from a Joint Venture that is not on Schedule F?**

If you are a Qualified Joint Ventures for IRS purposes (allowed for married individuals only) each individual should file a prorated Schedule F for their share of income and expense. If not so filed, then most likely it would be a partnership filing a Form 1065, thus the partnership would file an application for ERP2.