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IN FOCUS

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Department of Agriculture's Emergency Relief Program (ERP)

The U.S. Department of Agriculture (USDA) administers a suite of programs that assists farmers and ranchers with recovering from a natural disaster. Many of these programs are permanently authorized and receive funding from mandatory sources. Since 2018, Congress has provided more than $19 billion in supplemental appropriations to fund temporary or "ad hoc programs" for losses not covered under permanent programs.

The language directing the supplemental funds and their implementation has evolved. Both the Trump and Biden Administrations have implemented these funds through a series of ad hoc programs that change in name and eligibility requirements. Currently, the primary ad hoc program created to administer this funding is the Emergency Relief Program (ERP). This In Focus provides an overview of ERP. Livestock forage related losses provided through the Emergency Livestock Relief Program (ELRP), milk loss, and inactive ad hoc programs are not discussed here. For an overview of all USDA disaster assistance programs, see CRS Report RS21212, *Agricultural Disaster Assistance*.

Supplemental Appropriations

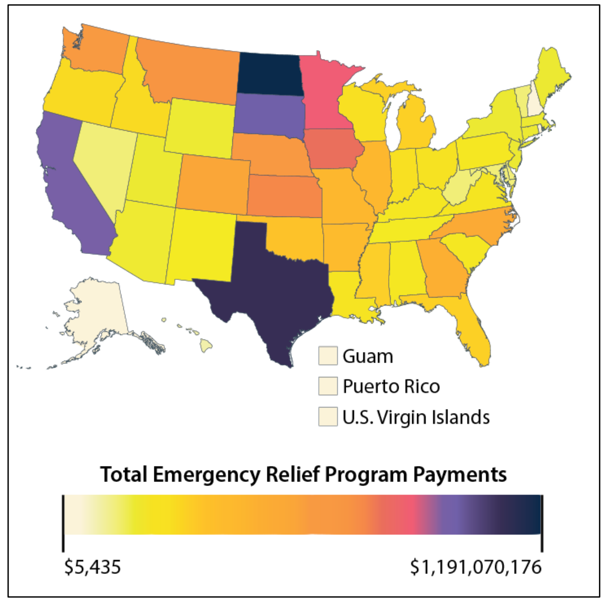
The Disaster Relief Supplemental Appropriations Act of 2022 (P.L. 117-43, Division B, FY2022 supplemental) provided $10 billion for agricultural production losses in calendar years (CYs) 2020 and 2021 from qualifying natural disaster events, such as droughts, wildfires, hurricanes, floods, tornadoes, excessive heat, and freeze. Eligible losses include crops (including on-farm stored commodities and crops prevented from planting), trees, bushes, and vines. The Disaster Relief Supplemental Appropriations Act, 2023 (passed as Division N of the Consolidated Appropriations Act, 2023, P.L. 117-328, FY2023 supplemental), provided $3.7 billion for agricultural losses in CY2022 from qualifying disaster events and losses, similar to those specified in the FY2022 supplemental.

ERP: Phases 1 and 2

FY2022 supplemental funds covered losses occurring in CY2020 and CY2021 and were implemented through ERP in two phases. ERP Phase 1 used Federal Crop Insurance Program (crop insurance) and Noninsured Crop Disaster Assistance Program (NAP) data as the basis for calculating payments. ERP Phase 2 covered eligible producers that did not participate in crop insurance or NAP. Phase 2 payments were based on estimated revenue loss due in whole or in part to a qualifying natural disaster event. All ERP participants that received a payment under Phase 1 or 2 were required to purchase a crop insurance or NAP policy for the next two available crop years.

Of the total FY2022 supplemental funds, $7.45 billion was distributed in Phase 1, and $783.9 million was distributed in Phase 2 (**Figure 1**).

Figure 1. Total ERP Payments by State, Phases 1 and 2, for Losses in CY2020 and CY2021



Source: USDA, Farm Service Agency, "ERP Dashboard."

Note: Total reported in nominal dollars and current as of November 13, 2023.

ERP 2022: Tracks 1 and 2

Qualified losses and natural disaster events authorized for the FY2023 supplemental funds are nearly identical to those authorized under the FY2022 supplemental funds. The majority of the FY2023 supplemental funds are implemented through a similar version of ERP—referred to as "ERP 2022"—offered in two tracks.

ERP 2022 Track 1 is calculated using existing crop insurance and NAP data, similar to ERP Phase 1. Payment calculations are based on several factors, including (1) the level of insurance or NAP coverage originally purchased, (2) an ERP factor, (3) insurance indemnity or payment received, and (4) a progressive payment factor.

Each producer's loss, by crop, is calculated consistent with the loss procedures for the type of coverage originally purchased. An ERP factor is substituted for the original coverage level (**Table 1**), thereby covering a higher percentage of loss. For example, a producer who originally purchased a NAP policy at 65% coverage would have an ERP factor of 95%. This calculated amount then would be adjusted by subtracting the crop insurance indemnity or NAP payment. For historically underserved producers—

including beginning, limited resource, socially disadvantaged, and veteran farmers and ranchers—the premium or administrative fee paid is added to the payment.

Table 1. ERP 2022 Factor

ERP Factor	Crop Insurance Level	NAP Level
75%	Catastrophic (CAT) coverage	CAT
80%	More than CAT, less than 55%	50%
82.5%	At least 55%, less than 60%	—
85%	At least 60%, less than 65%	55%
87.5%	At least 65%, less than 70%	—
90%	At least 70%, less than 75%	60%
92.5%	At least 75%, less than 80%	—
95%	At least 80%	65%

Source: USDA, FSA, "ERP 2022 Track 1 Factsheet."

Note: Under CAT coverage, participating producers can receive a payment equal to 55% of the estimated market price of the commodity on crop losses in excess of 50% of normal yield.

ERP 2022 Track 1 then applies a *progressive factor* to all payments calculated based on crop insurance indemnities (**Table 2**). Under the progressive factor, the higher the calculated payment, the lower the progressive factor percentage applied. For example, if the estimated ERP payment is $5,000, then the progressive factor is 100% for the first $2,000, 80% for the next $2,000, and 60% for the final $1,000, resulting in an adjusted payment of $4,200.

Table 2. Progressive Factor Applied to Crop Insurance-Calculated ERP 2022 Track 1 Payments

Payment Range	Progressive Factor
Up to $2,000	100%
$2,001 to $4,000	80%
$4,001 to $6,000	60%
$6,001 to $8,000	40%
$8,001 to $10,000	20%
Over $10,000	10%

Source: USDA, FSA, "ERP 2022 Track 1 Factsheet."

ERP 2022 Track 2 provides payments based on estimated revenue loss. There are two options for determining revenue loss—a tax year option and an expected revenue option. Estimated revenue is limited to 70% of estimated losses if no crop insurance or NAP coverage was purchased. Track 2 calculations include the progressive factor and are prorated based on available funds.

Payments under ERP 2022 are limited to $125,000 per person or legal entity if less than 75% of the participant's adjusted gross income (AGI) was from farming. If more than 75% of the participant's AGI was from farming, then payments are limited to a maximum of $900,000 for specialty and high value crops and $250,000 for all other crops per person or legal entity. All participants that received a payment under ERP 2022 are required to purchase a crop insurance or NAP policy for the next two available crop years.

Issues for Congress

Effectiveness of Permanent Programs

Following five years of supplemental appropriations to cover agricultural production loss for natural disasters, Congress may consider reassessing the effectiveness of the permanent disaster assistance programs as well as crop insurance coverage and NAP. In addition to covering losses beyond what may be covered by crop insurance and NAP, ERP covers losses not covered by other permanent programs. Congress may explore whether the permanent disaster assistance programs could or should be expanded to cover losses or events not currently covered (e.g., loss of quality and on-farm storage losses). Also, by covering the losses of farmers who did not purchase insurance, Congress may consider whether ERP creates a potential disincentive for future participation in crop insurance or NAP.

Timing

Ad hoc assistance programs are not permanent and generally require USDA to issue program requirements upon passage of each new extension or on being amended, which has resulted in payment delays. Recent supplemental appropriations included individual provisions targeting specific losses or events. USDA administers the provisions through multiple subprograms, which may create complexities for implementation and participation. This has affected the timing of ERP payments and implementation. Most recently, the FY2023 supplemental was enacted on December 29, 2022, and details on ERP 2022 Tracks 1 and 2 were announced October 27, 2023, nearly 10 months later. The delay may be due, in part, to USDA's desire to close out ERP Phases 1 and 2 before implementing ERP 2022.

Payment Rates

Unlike the permanent agricultural disaster assistance programs that receive such sums as necessary from mandatory sources, the ad hoc assistance programs receive a finite amount of funding. This funding is required to cover a diverse set of agricultural losses from different natural disasters nationwide. While supplemental appropriations provide some direction regarding payment rates, discretion is left to USDA to determine payment rates and limits. To stay within the limited amount of funding provided, USDA prorates the payments issued. Under ERP 2022, USDA changed the way payments are calculated and implemented a progressive factor. Some argue this calculation disproportionately lowers payments to those with larger losses. USDA reportedly responded to such concerns stating losses uncovered by existing programs for CY2022 totaled $12 billion, three times more than the $3.7 billion provided in the FY2023 supplemental.

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