

National Bulletin: 440-12-XX

Subject: PGM – Policy Reference When Assisting Producers Affected by the Drought

Purpose. To provide policy references and guidance for assisting producers affected by the severe drought.

Expiration Date. September 30, 2012

Background. Many States are experiencing severe drought this year. As a result, producers may not be able to implement contracted conservation practices or enhancements in accordance with the original schedule of operations, conservation practices already implemented may have failed, or new resource concerns may have developed that may prevent the producer from installing the conservation practices or enhancements as originally planned. In addition, producers may not be able to meet the provisions specified in their highly erodible land (HEL) compliance plan.

Additionally, landowners with existing Wetlands Reserve Program (WRP), Emergency Wetlands Reserve Program (EWRP), or Emergency Watershed Protection Program Floodplain Easements (EWPP-FPE) easements in drought-affected areas may request a compatible use authorization (CUA) to implement haying, grazing, or other management practices on the easement area where such use is consistent with conservation of wildlife habitat, wetlands, or floodplain objectives of the easement.

Explanation. Existing policy is in place to address necessary actions for assisting producers and easement landowners who are experiencing hardships due to the severe drought across the United States. State Conservationists should review the following guidance and consider all options in order to support producers and landowners affected by the drought.

Conservation program contract (CPC) administration actions may be necessary for some CPCs to delay or reschedule implementation due to adverse conditions in order to keep contracts in compliance. In addition, participants with an Agricultural Management Assistance (AMA), Environmental Quality Incentives Program (EQIP), or Wildlife Habitat Incentive Program (WHIP) contracts may need to request a waiver to the requirement to start a practice within the first 12 months as per Title 440, Conservation Programs Manual (CPM), Part 512, Subpart E, Section 512.45.

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Conservation Stewardship Program contract administrative actions may be necessary to ensure that a participant will not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond their control, including a disaster or related condition, as determined by the State Conservationist. In addition to policy contained in 440-CPM, Parts 508 and 512, States in affected areas may submit variance requests to National Headquarters to make temporary adjustments to enhancement criteria. Attached to this bulletin is the template to be used when requesting a variance and an example of a completed variance request. Payments may only be made if the contract is on schedule and activities have been certified and approved unless the participant and NRCS have a signed NRCS-CPA-153, "Agreement Covering Non-Compliance with Provisions of the Contract." Once the NRCS-CPA-153 is signed, the participant may receive the annual payment for that year. Payments may not be made if the participant has not incurred a cost or environmental benefits have not been obtained.

Conservation Security Program policy at 440-CPM, Part 518, Subpart E, Section 518.44D, provides an exception for significant natural events that prevent the participant from achieving the minimum requirements that allow those requirements to be considered met so long as the participant can provide documentation of their stewardship prior to such an event. If approved, the exception granted due to the natural disaster needs to be well documented on Form NRCS-CPA-13. Potential noncompliance issues are to be documented on Form NRCS-CPA-153.

Subject to the availability of funds, financial assistance for reapplication of failed practices may be approved as allowed by individual program policy or in some circumstances, new CPCs may be approved. 440-CPM, Part 512, Subpart F, Section 512.53, provides policy for reapplication of failed conservation treatment under the financial assistance programs including AMA, Conservation Stewardship Program, Conservation Security Program, EQIP, and WHIP. This policy provides the guidance for modifications to active CPCs, including fund source, and when a new CPC is required.

For easement programs including the WRP, EWRP, and EWPP-FPE, States will expedite review of requests and issuance of appropriate CUAs for haying, grazing, or other appropriate management activities in drought-affected counties. CUAs must further the protection and enhancement of the wildlife habitat and wetland functions and values and must be completed in accordance with WRP policy set forth in 440-CPM, Part 514, Subpart G, Section 514.62. To aid in prioritizing workload within each state, priority for review will be based on the most current U.S. Drought Monitor data:

- Highest priority will be to counties with any area (percentage) classified as Exceptional (D4) or Extreme Drought (D3) Data can be found at http://droughtmonitor.unl.edu/dmshps_archive.htm, under "Statistics" click on "County" on the far right column under the most recent date to see all U.S. counties with their current drought area percentages.

The State Conservationist makes the final determination of compatibility for CUAs and is the NRCS Federal official accountable for all such determinations. The State Conservationist may delegate this responsibility to the Assistant State Conservationist or area conservationist, but this authority may not be delegated any further. CUAs written in response to drought related requests must be uploaded into

the National Easement Staging Tool.

The Emergency Watershed Program (EWP) helps landowners, operators, and individuals implement emergency recovery measures to relieve imminent hazards to life or property created by a natural disaster that causes a sudden impairment of a watershed. Assistance must be through eligible project sponsors. Refer to Title 390, National Emergency Watershed Protection Program Manual, Part 511, Subpart A, Section 511.4A(3) for eligibility requirements for assistance with disposal of animal carcasses.

In addition to program opportunities, producers may be experiencing issues with complying with the provisions of their HEL plan. Title 180, National Food Security Act Manual (NFSAM), Part 520, Subpart B, "Handling HEL Compliance Deficiencies, Exemptions, and Variances," provides State Conservationists the authority to grant variances for HEL and wetland compliance when special conditions, including weather, pests, or disease exist. 180-NFSAM, Part 520, Subpart B, states that a compliance review is required for every tract provided with a variance or exemption from the HELC or wetland conservation provisions in the previous year to determine if the reason for the variance has been alleviated and if the producer is using an acceptable conservation system.

Contact. For additional information financial assistance programs, contact Leah Ricke, policy specialist, at (202) 690-0547 or leah.ricke@wdc.usda.gov, for information on easement programs, contact Jessica Groves, national WRP manager, at (202) 720-1067 or jessica.groves@wdc.usda.gov.



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