



Rural Development

November 20, 2024

Rural Utilities Service

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TO: State Directors
Community Programs Directors
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FROM: Michele Brooks
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Rural Utilities Service

SUBJECT: Resources Available to Water and Environmental Programs Customers
Impacted by Presidentially Declared Disasters

This memorandum outlines existing tools to assist Rural Utilities Service (RUS), Water and Environmental Programs (WEP) customers impacted by Presidentially Declared Disasters (PDD), most recently including Hurricane Helene and Hurricane Milton. Impacts from disaster events vary and may include physical infrastructure damage to financial implications, such as the loss of jobs and income of system users impacting their ability to repay existing RUS loans. WEP has tools available to provide support and relief in this time of great need.

We thank you for your proactive customer service and targeted assistance to those customers affected to ensure they have the resources to recover and provide clean water and waste disposal services. While this memorandum outlines existing servicing options in accordance with established policies and procedures, please coordinate with WEP in the event there are unique circumstances impacting a WEP customer. Provisions in this letter are focused on PDD events; however, they may be applied to other emergency events as authorized by the RUS Administrator.

RESOURCES FOR CUSTOMERS IMPACTED BY DISASTERS

The potential for delinquency increases with the occurrence of disaster events. Servicing officials are reminded that preventive assistance may be warranted for customers that demonstrate indicators of potential financial or managerial issues. As communicated in the RUS Administrator policy memo titled, "Guidance on Helping WEP Borrowers in Financial Difficulty," signed on August 23, 2017, there is no need to wait for a customer to become delinquent before developing solutions to prevent or mitigate a delinquency. Early and ongoing communication with customers can help with implementing solutions that put the customer on a sustainable path.

EXPIRATION DATE:
November 30, 2025

FILING INSTRUCTIONS:
Rural Utilities Service

Multiple options can be considered on a case-by-case basis to prevent or mitigate a delinquency in its early stages in accordance with RUS Staff Instruction (SI) 1780-1, Approval Authority for Water and Waste Disposal Loans and Grants, RUS SI 1782-1, Servicing of the Water and Waste Disposal Program, and other applicable WEP policies and Federal laws. Provided below is an array of options that may be utilized (in process order):

Technical Assistance

WEP is fortunate to have an extensive network of technical assistance (TA) providers available as support. TA providers can assist with assessing needs, developing applications for financial assistance, instituting workout agreements, updating risk and resilience assessments and emergency response plans, and providing other critical resources for WEP customers. This includes both hands-on assistance as well as training to operators, management officials, and other key stakeholders. The resources provided are vital to deter a disruption in services, improve immediate recovery, and strengthen financial and operational sustainability. Contact information for national providers in your state can be found at these websites:

- National Rural Water Association (NRWA): <http://nrwa.org>
- Rural Community Assistance Partnership (RCAP): <http://rcap.org>

In addition, WEP's Circuit Rider Program may be utilized to repair or restore systems in need during this emergency, to include providing temporary personnel to operate systems when a system operator is incapacitated. Please work with your systems so they know these resources are available to them. For Circuit Rider assistance, please contact your local State Rural Water Association. For internal Agency-related questions, contact Penny Douglas, Community Programs Specialist, by phone at (202) 253-0504 or via email at Penny.Douglas@usda.gov.

WEP Funding Resources

While Congress may provide supplemental funding resources following major disaster events, it takes time for the funding needs to be realized and for those funds to reach WEP. We ask for your support in communicating what the financial needs are in the communities you serve, which better positions WEP to request supplemental funding.

In the immediate aftermath of a PDD, please reach out to your assigned WEP Program Operations Branch Specialist to learn more about what funding is currently available. The available resources may vary depending on factors, such as the timing of the fiscal year. The Emergency and Imminent Community Water Assistance Grants program supports recovery efforts, including the provision of a temporary water supply. Further, the use of reserve funds may provide a short-term solution for disaster-related impacts following a PDD. Such use must, however, be discussed with and approved by WEP.

Applicability of Build America Buy American Act (BABA)

Public Law 117-58 section 70912(4)(B), further clarified in OMB memo M-22-11, states that BABA does not apply to expenditures "...made in anticipation of or response to an event or events that qualify as an "emergency" or "major disaster" within the meaning of the Stafford Act" [requiring a presidential declaration].

Thereby, the provisions of the BABA statutorily do not apply to projects in response to PDD events. This does not apply to projects that are unrelated to the PDD. For more information on BABA, please reach out to Valdis Krumins, Senior Environmental Engineer, by phone at (202) 619-8586 or by email at Valdis.Krumins@usda.gov.

Extension of Unliquidated Loan Obligations (ULO)

Related to projects with obligations that have not yet been liquidated, additional time for loan and grant ULO extension can be provided if construction is impacted by disaster events. Specific reference to the PDD should be referenced in the ULO waiver request that is submitted through the Commercial Programs Application Processing system (CPAP). The USDA Rural Development (RD) State Office must upload a copy of the disaster declaration with the ULO request, as well as provide an updated timeline for project completion.

In the event a project related to a ULO is no longer feasible due to the impacts of the disaster, please reach out to WEP to discuss the available options.

Use of Customer Reserve Funds

WEP strives to position its customers to be financially sustainable in the long-term, which includes requirements for debt service and short-lived assets reserves. In the event a PDD impacts the customer's operations or financial capacity, these reserves may be used to provide temporary relief. Should the customer draw from the mandated reserves, a plan must be put in place to restore funding to the defined levels once normal operations are restored.

Implementation of Workout Agreements

When there are any indications of potential or existing financial distress from customers impacted by these emergencies, efforts should be made for a workout agreement to be put into place before a 90-day delinquency. All available servicing options must be undertaken promptly and efficiently, as in no instance should a delay on the part of the Agency be a reason for a borrower's financial condition or delinquency to worsen. The workout agreement must specify a defined timeframe that it will be in effect for and include the following actions, at a minimum:

1. Borrower agrees to provide current annual financial reports in conformance with 2 CFR 200 and other programmatic guidance.
2. Borrower will provide quarterly reports during the deferral period.

3. WEP servicing official will meet with customer quarterly to discuss their financial situation. If possible, the Technical Assistance Provider (TAP) will accompany the WEP servicing official during quarterly meetings with the borrower.
4. The TAP, along with the WEP servicing official where possible, will conduct a thorough on-site or virtual examination of the operation within the first quarter of the deferral period. If access is not possible during the first quarter, the examination will take place at the next available date. If needed, the TAP can also help obtain an accurate user count. The TAP will provide a written report with recommendations within a reasonable period.

Payment Deferrals for Direct Loans

Section 331A of the Consolidated Farm and Rural Development Act (CONACT), as amended through P.L. 117-243, Enacted December 20, 2022, allows deferral of principal or interest in situations where, due to circumstances beyond the borrower's control such as the effects of an emergency, the customer may not be generating adequate revenue to make its full debt service payment and required reserve deposits. RUS will temporarily grant to WEP customers in good standing, including delinquent borrowers with an executed workout agreement in place and compliant with the terms and conditions of said agreement, the ability to defer up to the equivalent of two annual payments upon request. Additional deferrals may be considered on a case-by-case basis with WEP approval.

The deferral of any payment is not a waiver of any amount due. Further, interest calculations will be adjusted to reflect the new outstanding balance, which may result in an increase to the daily interest accrual rate. Any deferred payment must be in conformance with applicable statutes, and the terms and conditions of the borrower's existing security instrument and evidence of debt.

If the customer is in good standing and enters into a loan deferral, the borrower will not be reported to the Do Not Pay (DNP) system or the Department of Treasury's Offset Program during the workout period, both of which would limit the borrower from being able to receive federal loans, grants, loan guarantees, and contracts until the delinquency is resolved and negotiated with Treasury. Foreclosure action is also postponed during a deferral period. This authority is under the discretion of the Administrator. Concurrence is required for this option under the exception authority granted by [7 CFR 1782, §1782.22](#).

For the customer to be considered for a deferral, the following conditions must be met:

- Due to circumstances beyond the customer's control, the borrower clearly demonstrates that it is temporarily unable to continue making scheduled payments because one of the following applies:
 - The borrower must pay unexpected or non-reimbursable expenses due to the impacts of the emergency.
 - The borrower is experiencing delays in receiving compensation from FEMA and/or insurance company for eligible reimbursement.
 - The borrower's revenue stream was temporarily reduced as a result of the emergency, including as a result of users' loss of property or employment.

[Form RD 1951-10](#), “Workout Agreement,” will be used to document the need for deferral. The workout agreement must: (1) specify the length of the deferral period; (2) the amount of payment of principal and interest being deferred; (3) the amount of any modified payments to be made; and (4) include actions outlined in the “Implementation of Workout Agreements” section of this memo, at a minimum.

When the customer can resume scheduled payments, the loan will be considered for reamortization within the terms and conditions of the existing security instruments and any evidence of debt, to include the amount deferred (principal and interest) during the deferral period. If the new payment exceeds the borrower's repayment ability, the servicing official will forward the information to WEP for consideration of an adjusted rate and term. After all appropriate servicing actions have been taken under 7 CFR 1782, if the borrower is unable to resume making scheduled payments after two consecutive years of being on a deferral, the account will be considered for debt settlement or other advanced servicing actions.

For documentation purposes, request for consideration for deferral will be input using the Request Funds Section of CPAP regardless of if it is within the two-year window. The following steps will also guide any request for deferral that exceeds two-years:

1. Under “Type Funds Request” choose “Other” and in the “Other Describe” field type Emergency Declaration.
2. Type the original principal loan amount in the Amount of Funds Requested box and in the Priority number box enter the applicable loan number.
3. In the “Additional Information” field please describe the reason for the deferral including the length of the referral being requested.
4. Answer “yes” to the remaining questions and then click submit.
5. In the Notes and Attachments Section of CPAP, upload [Form RD 1951-10](#), “Workout Agreement,” which would be in draft form for deferrals exceeding two-years, the completed RUS SI 1782-1, Exhibit F, “Report on Servicing Action,” and all supporting documentation.

Forbearance

On a case-by-case basis, a forbearance of RUS loan payments may be approved under the exception authority granted by [7 CFR 1782, §1782.22](#). This requires WEP approval and the involvement of the Office of the General Counsel and the borrower’s attorney as a forbearance agreement will need to be structured.

While a deferral of payment is a temporary pause, a forbearance allows for the temporary suspension or structured reduction of payments. There are many similarities between a payment deferral and forbearance; however, a forbearance may be preferred due to statutes or other factors. As with deferred payments described previously, forbearance does not restructure the debt or change the required payment amount, nor does it stop or change the interest accruing on the RUS loan. Through RUS loans, regardless of payment deferral or forbearance, the interest accrual does not cease, get subsidized, or modified in any way.

Reamortization

For delinquencies that cannot be resolved under the current terms and conditions of the RUS loan, reamortization may be considered. Through reamortization, outstanding principal and interest are recalculated, and a new payment schedule is established. The existing delinquent loan is terminated, and the borrower is no longer in a delinquent status. States are authorized to approve reamortizations within their approval authority. For documentation purposes, the approval of any reamortization resulting from an PDD should be submitted through CPAP in accordance with the guidance in the “Payment Deferrals for Direct Loans” section of this memo. Instructions for processing a reamortization are found in SI 1782-1, §1782.20(l)(5).

Transfer and Assumption

A delinquent customer may elect to transfer its operation and debt to another entity. This option is exercised in one of two ways: (1) the delinquent borrower merges with another entity to form a new entity; or (2) the borrower relinquishes ownership and operation of the system to another entity. The transfer and assumption may be made to either a WEP eligible entity or to an ineligible organization, though different rules apply to ineligible entities. In both instances, the delinquent entity may cease to exist as a RUS borrower, and the delinquent loan(s) may be replaced with new security issuances.

States may approve a transfer within the State Director’s loan approval authority that does not involve a loss to the Government of more than \$100,000. Processing is established through 7 CFR 1782, §1782.13, and SI 1782-1, §1782.13. Documentation of the transfer and assumption due to emergency circumstances should be submitted through the methodology used in the “Payment Deferrals for Direct Loans” section of this memo.

The above is different than the sale of a system, which is outlined in RUS SI 1782-1. Further, while the RUS loan may be paid-in-full and released through a transfer and assumption or sale, WEP does not have the authority to release the terms and conditions of previous grant awards, including grant repayment.

Risk and Resilience Assessments and Emergency Response Plans

All WEP customers are required to have in place an updated risk and resilience assessment (RRA) and emergency response plan (ERP). Assistance is available from the TA providers noted above. In the event an RRA/ERP is in need of an update, please contact a TA provider to ensure that a plan is put in place. Please reach out to WEP if you are having difficulty in directing resources to the customer, or if other considerations are needed.

As you coordinate and provide customer service to your borrowers, please note that the WEP does not require receipt of the actual assessment or plan, but you should be receiving a certification every three years that the RRA and ERP exist and are up to date. You should also be discussing the RRA and ERP with the customer during your routine security inspections and compliance reviews to ensure that they are prepared in the event of an emergency.

As the sole federal agency tasked to support rural water and waste disposal systems, we recognize the importance of making every effort to ensure the success of our customers. The WEP National Office staff is here to support you. For more information, please do not hesitate to contact Steven Polacek, Director, Water Programs Division, by phone at (202) 205-9805 or via email at steve.polacek@usda.gov or James Fritz, Portfolio Management Branch Chief, by phone (202) 253-8060 or via email at james.fritz2@usda.gov.

Thank you for all you do to support your communities and for rural America.