

117TH CONGRESS
2D SESSION

S. 5023

To improve disaster assistance programs of the Department of Agriculture,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Mr. THUNE (for himself and Mr. LUJÁN) introduced the following bill; which
was read twice and referred to the Committee on Agriculture, Nutrition,
and Forestry

A BILL

To improve disaster assistance programs of the Department
of Agriculture, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Agriculture Disaster
5 Assistance Improvement Act of 2022”.

6 **SEC. 2. EMERGENCY CONSERVATION PROGRAM.**

7 Title IV of the Agricultural Credit Act of 1978 is
8 amended by inserting after section 402B (16 U.S.C.
9 2202b) the following:

1 **“SEC. 402C. ADDITIONAL REQUIREMENTS FOR THE EMER-**
2 **GENCY CONSERVATION PROGRAM.**

3 “(a) ELIGIBILITY OF FEDERAL, STATE, AND LOCAL
4 LAND USERS.—

5 “(1) IN GENERAL.—An agricultural producer
6 eligible to receive payments under sections 401 and
7 402 includes a person that—

8 “(A) holds a permit from the Federal Gov-
9 ernment to conduct agricultural production or
10 grazing on Federal land; or

11 “(B) leases land from a State or unit of
12 local government to conduct agricultural pro-
13 duction or grazing on that land.

14 “(2) EFFECT.—Nothing in this subsection au-
15 thorizes the Secretary to make a payment under sec-
16 tion 401 or 402 to a State or unit of local govern-
17 ment.

18 “(b) PERMANENT IMPROVEMENTS.—Emergency
19 measures eligible for payments under sections 401 and
20 402 include—

21 “(1) new permanent measures, including per-
22 manent water wells and pipelines; and

23 “(2) replacement or restoration of existing
24 emergency measures with permanent measures, in-
25 cluding permanent water wells and pipelines.

26 “(c) STREAMLINING APPLICATION PROCESS.—

1 “(1) WAIVER OF PUBLIC COMMENT.—During a
2 drought emergency, as determined by the Secretary,
3 the 30-day public comment period required under
4 the National Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.) shall be waived with respect to
6 an application to carry out emergency measures
7 under section 401 or 402 on land administered by
8 the Secretary of the Interior, acting through the Di-
9 rector of the Bureau of Land Management (referred
10 to in this subsection as the ‘Secretary of the Inte-
11 rior’).

12 “(2) ACCEPTANCE OF NRCS REVIEWS.—With
13 respect to an application to carry out emergency
14 measures under section 401 or 402 on land adminis-
15 tered by the Secretary of the Interior, the Secretary
16 of the Interior may accept—

17 “(A) during a drought emergency, as de-
18 termined by the Secretary, an archeological re-
19 view conducted by the Secretary, acting through
20 the Chief of the Natural Resources Conserva-
21 tion Service, for purposes of an archeological
22 review required to be conducted;

23 “(B) an environmental review under the
24 National Environmental Policy Act of 1969 (42
25 U.S.C. 4321 et seq.) conducted by the Sec-

retary, acting through the Chief of the Natural Resources Conservation Service, for purposes of such an environmental review required to be conducted; and

“(C) a review under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) conducted by the Secretary, acting through the Chief of the Natural Resources Conservation Service, for purposes of such a review required to be conducted.”.

SEC. 3. EMERGENCY FOREST RESTORATION PROGRAM.

Section 407 of the Agricultural Credit Act of 1978 (16 U.S.C. 2206) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (3) through (5), respectively;

(B) by inserting before paragraph (3) (as so redesignated) the following:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) with respect to nonindustrial private forest land, an owner of the nonindustrial private forest land;

“(B) with respect to Federal land, a person that holds a permit from the Federal Government to conduct agricultural production or grazing on the Federal land; and

“(C) with respect to land owned by a State or a unit of local government, a person that leases land from the State or unit of local government to conduct agricultural production or grazing on that land.

“(2) ELIGIBLE LAND.—The term ‘eligible land’ means—

“(A) nonindustrial private forest land;

“(B) Federal land; and

“(C) land owned by a State or unit of local government.”; and

(C) in paragraph (3) (as so redesignated)—

(i) in subparagraph (A)—

(I) in the matter preceding clause

(i), by striking “nonindustrial private forest land” and inserting “eligible land”; and

(II) by redesignating clauses (i)

and (ii) as subclauses (I) and (II), re-

1 spectively, and indenting appro-
2 priately;

3 (ii) by redesignating subparagraphs
4 (A) and (B) as clauses (i) and (ii), respec-
5 tively, and indenting appropriately;

6 (iii) in the matter preceding clause (i)
7 (as so redesignated), by striking “The
8 term” and inserting the following:

9 “(A) IN GENERAL.—The term”; and

10 (iv) by adding at the end the fol-
11 lowing:

12 “(B) INCLUSIONS.—The term ‘emergency
13 measures’ includes—

14 “(i) new permanent measures de-
15 scribed in subparagraph (A), including per-
16 manent water wells and pipelines; and

17 “(ii) replacement or restoration of ex-
18 isting emergency measures with permanent
19 measures described in subparagraph (A),
20 including permanent water wells and pipe-
21 lines.”;

22 (2) in subsection (b)—

23 (A) by striking “an owner of nonindustrial
24 private forest land who” and inserting “an eli-
25 gible entity that”; and

1 (B) by striking “restore the land” and in-
 2 serting “restore eligible land”;

3 (3) in subsection (c)—

4 (A) by striking “owner must” and insert-
 5 ing “eligible entity shall”; and

6 (B) by striking “nonindustrial private for-
 7 est land” and inserting “eligible land”;

8 (4) in subsection (d), by striking “an owner of
 9 nonindustrial private forest land” and inserting “an
 10 eligible entity”;

11 (5) by redesignating subsection (e) as sub-
 12 section (g); and

13 (6) by inserting after subsection (d) the fol-
 14 lowing:

15 “(e) STREAMLINING APPLICATION PROCESS.—

16 “(1) WAIVER OF PUBLIC COMMENT.—During a
 17 drought emergency, as determined by the Secretary,
 18 the 30-day public comment period required under
 19 the National Environmental Policy Act of 1969 (42
 20 U.S.C. 4321 et seq.) shall be waived with respect to
 21 an application to carry out emergency measures
 22 under this section on land administered by the Sec-
 23 retary of the Interior, acting through the Director of
 24 the Bureau of Land Management (referred to in this
 25 subsection as the ‘Secretary of the Interior’).

1 “(2) ACCEPTANCE OF NRCS REVIEWS.—With
2 respect to an application to carry out emergency
3 measures under this section on land administered by
4 the Secretary of the Interior, the Secretary of the
5 Interior may accept—

6 “(A) during a drought emergency, as de-
7 termined by the Secretary, an archeological re-
8 view conducted by the Secretary, acting through
9 the Chief of the Natural Resources Conserva-
10 tion Service, for purposes of an archeological
11 review required to be conducted;

12 “(B) an environmental review under the
13 National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.) conducted by the Sec-
15 retary, acting through the Chief of the Natural
16 Resources Conservation Service, for purposes of
17 such an environmental review required to be
18 conducted; and

19 “(C) a review under the Endangered Spe-
20 cies Act of 1973 (16 U.S.C. 1531 et seq.) con-
21 ducted by the Secretary, acting through the
22 Chief of the Natural Resources Conservation
23 Service, for purposes of such a review required
24 to be conducted.

1 “(f) EFFECT.—Nothing in this section authorizes the
 2 Secretary to make a payment under this section to a State
 3 or unit of local government.”.

4 **SEC. 4. LIVESTOCK FORAGE DISASTER PROGRAM.**

5 Section 1501(c)(3)(D)(ii)(I) of the Agricultural Act
 6 of 2014 (7 U.S.C. 9081(c)(3)(D)(ii)(I)) is amended—

7 (1) by striking “at least 8 consecutive” and in-
 8 serting the following: “not less than—

9 “(aa) 4 consecutive weeks
 10 during the normal grazing period
 11 for the county, as determined by
 12 the Secretary, shall be eligible to
 13 receive assistance under this
 14 paragraph in an amount equal to
 15 1 monthly payment using the
 16 monthly payment rate deter-
 17 mined under subparagraph (B);
 18 or

19 “(bb) 8 consecutive”; and

20 (2) in item (bb) (as so designated), by striking
 21 “1 monthly payment” and inserting “2 monthly pay-
 22 ments”.

1 **SEC. 5. EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY**
 2 **BEES, AND FARM-RAISED FISH.**

3 (a) IN GENERAL.—Section 1501(d) of the Agricul-
 4 tural Act of 2014 (7 U.S.C. 9081(d)) is amended—

5 (1) in paragraph (1), by inserting “drought,”
 6 after “adverse weather,”;

7 (2) in paragraph (2), by inserting “adverse
 8 weather or drought (such as added transportation
 9 costs, feed costs, and reduced honey crops for eligi-
 10 ble producers of honey bees),” after “disease,”;

11 (3) in paragraph (4)—

12 (A) by striking “In the case” and inserting
 13 the following:

14 “(A) IN GENERAL.—In the case”; and

15 (B) by adding at the end the following:

16 “(B) REQUIREMENTS.—The payment rate
 17 under subparagraph (A) shall—

18 “(i) in the case of eligible producers of
 19 honey bees, incorporate per-hive and per-
 20 colony rates of loss; and

21 “(ii) incorporate a standardized ex-
 22 pected mortality rate of 15 percent.”; and

23 (4) by adding at the end the following:

24 “(5) DOCUMENTATION.—

25 “(A) IN GENERAL.—Any requirements for
 26 the submission of documentation by an eligible

1 producer to receive a payment under this sub-
 2 section shall be consistent nationwide.

3 “(B) PRODUCERS OF HONEY BEES.—The
 4 Secretary, in consultation with eligible pro-
 5 ducers of honey bees, shall establish a standard,
 6 for purposes of this subsection, for—

7 “(i) collecting data; and

8 “(ii) setting an annual rate for replac-
 9 ing colonies and hives of honey bees.”.

10 (b) APPLICABILITY TO PRODUCERS OF HONEY
 11 BEES.—The Secretary of Agriculture shall apply the
 12 amendments made by subsection (a) to producers of honey
 13 bees such that there is no limit on the size of a beekeeping
 14 operation with respect to those amendments.

15 **SEC. 6. DROUGHT MONITOR INTERAGENCY WORKING**
 16 **GROUP.**

17 (a) IN GENERAL.—Not later than 180 days after the
 18 date of enactment of this Act, the Secretary of Agriculture
 19 shall establish an interagency working group (referred to
 20 in this section as the “working group”) to improve the
 21 availability of consistent, accurate, and reliable data for
 22 use in producing the United States Drought Monitor in
 23 accordance with section 12512 of the Agriculture Improve-
 24 ment Act of 2018 (7 U.S.C. 5856).

1 (b) MEMBERSHIP.—The working group shall consist
2 of not fewer than—

3 (1) 3 representatives from the Department of
4 Agriculture, including 1 representative from each
5 of—

6 (A) the Office of the Chief Economist, who
7 shall serve as the Chair of the working group;

8 (B) the Forest Service; and

9 (C) the Farm Service Agency;

10 (2) 4 representatives from the National Oceanic
11 and Atmospheric Administration, including 1 rep-
12 resentative from each of—

13 (A) the Climate Prediction Center;

14 (B) the National Centers for Environ-
15 mental Information;

16 (C) the National Integrated Drought In-
17 formation System; and

18 (D) the National Mesonet Program;

19 (3) 1 representative from the National Drought
20 Mitigation Center;

21 (4) 1 representative from the Department of
22 the Interior; and

23 (5) 3 representatives from mesonet programs in
24 States—

1 (A) that have experienced severe drought,
2 as determined by the United States Drought
3 Monitor, in not less than 5 calendar years dur-
4 ing the period of calendar years 2012 through
5 2021; and

6 (B) more than 50 percent of the land area
7 of which is designated by the Economic Re-
8 search Service as a Level 1 frontier and remote
9 area.

10 (c) DUTIES.—The working group shall—

11 (1) develop a means for the inclusion of addi-
12 tional in-situ data into the process of developing the
13 United States Drought Monitor, including—

14 (A) determining minimum requirements
15 for data to be included in the United States
16 Drought Monitor;

17 (B) identifying data available from other
18 government agencies, including through portals
19 managed by the National Oceanic and Atmos-
20 pheric Administration; and

21 (C) identifying gaps in coverage and deter-
22 mining solutions to address those gaps;

23 (2) identify and address potential barriers to
24 the use of existing data, including—

1 (A) identifying Federal datasets that would
2 be of immediate use in developing the United
3 States Drought Monitor where access is re-
4 stricted to some or all authors of the United
5 States Drought Monitor; and

6 (B) developing proposed accommodations,
7 modifications to contractual agreements, or up-
8 dates to interagency memoranda of under-
9 standing to allow for incorporation of datasets
10 identified under subparagraph (A);

11 (3) develop an open and transparent method-
12 ology for vetting data products developed using re-
13 mote sensing or modeling;

14 (4) if determined appropriate by the working
15 group, develop a methodology for inclusion of data
16 that may otherwise be excluded from the United
17 States Drought Monitor due to shorter periods of
18 record; and

19 (5) identify and address any other issues relat-
20 ing to data availability and quality, as determined
21 appropriate by the Chair of the working group.

22 (d) REPORT.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, the working group
25 shall submit to the Secretary of Agriculture, the

1 Secretary of Commerce, the Secretary of the Inte-
2 rior, and the relevant committees of Congress a re-
3 port containing recommendations for changes in
4 policies, regulations, guidance documents, or existing
5 law to meet the objectives described in subsection
6 (c).

7 (2) DEFINITION OF RELEVANT COMMITTEES OF
8 CONGRESS.—In this subsection, the term “relevant
9 committees of Congress” means—

10 (A) the Committee on Agriculture, Nutri-
11 tion, and Forestry of the Senate;

12 (B) the Committee on Commerce, Science,
13 and Transportation of the Senate;

14 (C) the Committee on Agriculture of the
15 House of Representatives; and

16 (D) the Committee on Science, Space, and
17 Technology of the House of Representatives.

18 (e) ACTION BY THE SECRETARY.—Not later than
19 180 days after the date of submission of the report under
20 subsection (d), the Secretary of Agriculture, in coordina-
21 tion with the Secretary of Commerce and the Secretary
22 of the Interior, shall incorporate, to the extent practicable,
23 the recommendations of the working group to improve the
24 United States Drought Monitor in accordance with section

1 12512 of the Agriculture Improvement Act of 2018 (7
2 U.S.C. 5856).

3 (f) TERMINATION.—The working group shall termi-
4 nate on the date that is 90 days after the date on which
5 the report is submitted under subsection (d).

6 **SEC. 7. ALIGNMENT OF FARM SERVICE AGENCY AND FOR-**
7 **EST SERVICE DROUGHT RESPONSE.**

8 (a) IN GENERAL.—Not later than 60 days after the
9 date of submission of the report under section 6(d), the
10 Administrator of the Farm Service Agency and the Chief
11 of the Forest Service shall enter into a memorandum of
12 understanding to better align drought response activities
13 of the Farm Service Agency and the Forest Service (re-
14 ferred to in this section as the “agencies”).

15 (b) CONTENTS.—The memorandum of understanding
16 entered into under subsection (a) shall include—

17 (1) a commitment to better align practices of
18 the agencies with respect to determining the severity
19 of regional drought conditions;

20 (2) a strategy for amending those determina-
21 tions to ensure consistent policy with respect to
22 drought response in cases where the agencies are
23 making inconsistent determinations within the same
24 spatial scale;

1 (3) an agreement to utilize, to the extent prac-
2 ticable, the United States Drought Monitor in mak-
3 ing those determinations; and

4 (4) an agreement to provide consistent informa-
5 tion to grazing permittees, operators, and other
6 stakeholders affected by determinations relating to
7 drought.

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