CHAPTER 13

AGRICULTURAL WATER MANAGEMENT AND IRRIGATION

§351. Agricultural Water Management and Irrigation Fund

1. Fund; established. The Agricultural Water Management and Irrigation Fund, referred to in this chapter as "the fund," is established as a nonlapsing fund in the Department of Agriculture, Conservation and Forestry. The commissioner may accept money for the fund from any public or private source and make expenditures from the fund for the purpose of improving the use of irrigation in agriculture and the use of water resources in animal agriculture.
[PL 2005, c. 150, §2 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

2. Administration. The commissioner shall administer the fund.
[PL 2005, c. 150, §2 (NEW).]

3. Rulemaking. The commissioner shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2005, c. 150, §2 (NEW).]

4. Report. The commissioner shall submit an annual report on March 1st to the joint standing committee of the Legislature having jurisdiction over agricultural matters. The report must include a summary of money available in the fund, the use of the fund and the status of agricultural irrigation in the State.
[PL 2005, c. 150, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 150, §2 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

§352. Maine Agricultural Water Management Board

The Maine Agricultural Water Management Board is established in Title 5, section 12004-G, subsection 3-D and referred to in this section and section 353 as "the board." [PL 2005, c. 559, §2 (NEW).]

1. Membership. All members of the board must be residents of this State. The board consists of 9 members as follows:

A. Five members appointed by the commissioner, consisting of:

(1) A potato producer;

(2) A wild blueberry producer;

(3) A small fruit or vegetable grower;

(4) A producer of ornamental crops; and

(5) A livestock producer; [PL 2005, c. 559, §2 (NEW).]

B. Three members appointed by the Governor, consisting of:

(1) A person with expertise in federal wetlands permitting;

(2) A person with expertise in agricultural engineering and water use efficiency; and

(3) A member of the general public; and [PL 2005, c. 559, §2 (NEW).]

C. The Commissioner of Environmental Protection or the commissioner's designee. [PL 2005, c. 559, §2 (NEW).]

[PL 2005, c. 559, §2 (NEW).]

2. Duties. The board, working in conjunction with the Department of Environmental Protection, shall:

A. Oversee and coordinate the environmentally sound and affordable development of water sources for agricultural use; [PL 2005, c. 559, §2 (NEW).]

B. Make recommendations for improvements to federal and state permitting processes for the development of farm ponds and other water sources for agricultural use; [PL 2005, c. 559, §2 (NEW).]

C. Work to secure funding for the construction of environmentally sound, efficient and affordable water sources for agricultural use; [PL 2005, c. 559, §2 (NEW).]

D. Use data generated by water withdrawal reports under Title 38, section 470-D and other available information to prioritize watersheds needing alternative water sources for agricultural use and the allocation of funding; and [PL 2005, c. 559, §2 (NEW).]

E. Facilitate the implementation of the sustainable agricultural water source program under section 353. [PL 2005, c. 559, §2 (NEW).]

[PL 2005, c. 559, §2 (NEW).]

3. Agricultural water use management plans. In addition to its duties under subsection 2, the board shall develop a model for agricultural water use management plans including a list of issues to be addressed in each plan. The board shall assist agricultural users in the development of water management plans. For the purposes of this section and section 353, "agricultural water use management plan" means a written document that states the source of water and outlines how water is managed, including a method of storage, if needed, and how water is used on the farm for which the plan is written.

[PL 2005, c. 559, §2 (NEW).]

4. Terms of membership; chair. Except for initial appointees under subsection 1, each member appointed serves for a term of 3 years. In the case of a vacancy, the Governor shall appoint a member to fill the unexpired term. The Governor and commissioner shall determine initial appointment terms to stagger term expirations. The board shall annually elect one of its members as chair.

[PL 2005, c. 559, §2 (NEW).]

5. Compensation. Members of the board are entitled to expenses only.

[PL 2005, c. 559, §2 (NEW).]

6. Staff. The department shall provide staff to the board.

[PL 2005, c. 559, §2 (NEW).]

7. Meetings. The board shall meet as needed to perform its duties.

[PL 2005, c. 559, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 559, §2 (NEW).

§353. Sustainable agricultural water source program

The board shall work with the department and the Department of Environmental Protection to facilitate implementation of the sustainable agricultural water source program in accordance with this section. The Board of Environmental Protection shall determine flow standards through rulemaking authorized under Title 38, section 470-H. [PL 2005, c. 559, §2 (NEW).]

1. Site-specific standards. Upon request of the board, the department or a person using or proposing to use surface waters for agricultural purposes, the Department of Environmental Protection shall determine site-specific flow standards and water levels for a water body used or being considered for use as a water source for agriculture.
[PL 2005, c. 559, §2 (NEW).]

2. Compliance date for water use standards. An agricultural producer has 5 years from the effective date of rules adopted under Title 38, section 470-H to meet the standards established in those rules if that agricultural producer is:

A. An agricultural producer who has filed or whose predecessor had filed a water use report under Title 38, section 470-D prior to December 1st of the year in which rules authorized by Title 38, section 470-H are finally adopted; or [PL 2005, c. 559, §2 (NEW).]

B. An agricultural producer who can otherwise document a history of agricultural water use at the site prior to December 1st of the year in which rules authorized by Title 38, section 470-H are finally adopted. [PL 2005, c. 559, §2 (NEW).]

An agricultural producer who has or whose predecessor had a permit or voluntary agreement establishing withdrawal limits must adhere to those limits for the 5-year period or until in compliance with the standards established in rule.

For the purposes of this subsection, "predecessor" means a person who preceded an agricultural producer in the ownership or use of a parcel of land.
[PL 2005, c. 559, §2 (NEW).]

3. Assistance to agricultural producers. Agricultural producers may seek assistance from the board for the development of sustainable water sources, including permitting assistance where applicable. An agricultural producer must have an agricultural water use management plan prior to receiving financial support for the development of an alternative water source.
[PL 2005, c. 559, §2 (NEW).]

4. Compliance extension. The Department of Environmental Protection, upon recommendation of the board, may grant an extension beyond the original 5 years to an agricultural producer who qualifies for the 5-year compliance date under subsection 2 and has a strategy for compliance with the rules authorized by Title 38, section 470-H if:

A. The agricultural producer requesting the extension has an agricultural water use management plan consistent with the board's model developed under section 352, subsection 3; [PL 2005, c. 559, §2 (NEW).]

B. The agricultural water use management plan identifies water storage options for the agricultural producer and alternative water sources; [PL 2005, c. 559, §2 (NEW).]

C. The agricultural producer has applied for funding and permits as needed; [PL 2005, c. 559, §2 (NEW).]

D. The agricultural producer has implemented all feasible water use reduction options that are consistent with the agricultural water use management plan; [PL 2005, c. 559, §2 (NEW).]

E. The agricultural producer has complied with water withdrawal limits established in an existing permit or voluntary agreement; and [PL 2005, c. 559, §2 (NEW).]

F. Unforeseen or exceptional circumstances, such as weather events, delays in federal permitting or federal cost-share funding, have prevented implementation of the agricultural water use management plan. [PL 2005, c. 559, §2 (NEW).]

[PL 2005, c. 559, §2 (NEW).]

5. Enforcement. The board shall examine water withdrawals for agricultural uses that result in a violation of flow rates or water levels, consider any unforeseen or exceptional circumstances of the agricultural producers, withdrawing water from the water bodies and make recommendations to the Department of Environmental Protection regarding compliance. Nothing in the responsibilities or actions of the board limits the enforcement or compliance authority of the Department of Environmental Protection under Title 38.
[PL 2005, c. 559, §2 (NEW).]

6. Biennial report. The board shall submit a report on the sustainable agricultural water source program to the joint standing committee of the Legislature having jurisdiction over agricultural matters and the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 30th of odd-numbered years beginning January 30, 2007.
[PL 2009, c. 652, Pt. A, §5 (AMD).]

SECTION HISTORY

PL 2005, c. 559, §2 (NEW). PL 2009, c. 652, Pt. A, §5 (AMD).

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