

§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).]
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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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