

Effective 3/16/2018

Part 2
Agricultural Water Optimization

73-10g-201 Title.

This part is known as "Agricultural Water Optimization."

Enacted by Chapter 143, 2018 General Session

73-10g-203.5 Definitions.

As used in this part:

- (1) "Account" means the Agricultural Water Optimization Account created in Section 73-10g-204.
- (2) "Agricultural water optimization" means the implementation of agricultural and water management practices that maintain viable agriculture without increasing water depletion to enhance water availability and minimize impacts on water supply, water quality, and the environment.
- (3) "Change application" means an application filed under Section 73-3-3.
- (4) "Committee" means the Agricultural Water Optimization Committee created in Section 73-10g-205.
- (5) "Conservation commission" means the conservation commission created in Section 4-18-104.
- (6) "Department" means the Department of Agriculture and Food.
- (7) "Funding application" means an application filed under Section 73-10g-206.
- (8) "Saved water" means the same as that term is defined in Section 73-3-3.

Amended by Chapter 233, 2024 General Session

73-10g-204 Agricultural Water Optimization Account.

- (1) There is created a restricted account within the General Fund called the "Agricultural Water Optimization Account."
- (2) The account consists of:
 - (a) appropriations from the Legislature;
 - (b) federal funds; and
 - (c) grants or donations from other public or private sources.
- (3) Subject to appropriation, the conservation commission may use money in the account to issue grants in accordance with Section 73-10g-206 to improve agricultural water optimization.
- (4) Until December 31, 2024, the department may loan up to \$3,000,000 of General Fund money in the account to the Agriculture Resource Development Fund, subject to the conditions described in Section 4-18-106.
- (5)
 - (a) The department shall maintain the account and record the debits and credits made to the account by the department.
 - (b) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.
- (6) The department and the Department of Natural Resources may use money in the account for the administration of this part, except that the aggregate amount expended under this Subsection (6) may not exceed 1.5% of the money appropriated to the grant program described in Section 73-10g-206.

Amended by Chapter 261, 2023 General Session

73-10g-205 Agricultural Water Optimization Committee.

- (1) There is created in the department a committee known as the "Agricultural Water Optimization Committee" that consists of:
 - (a) the commissioner of the department, or the commissioner's designee;
 - (b) the director of the division, or the director's designee;
 - (c) the director of the Division of Water Rights, or the director's designee;
 - (d) the dean of the College of Agriculture and Applied Science from Utah State University, or the dean's designee;
 - (e) one individual representing local conservation districts created by Title 17D, Chapter 3, Conservation District Act, appointed by the executive director of the Department of Natural Resources;
 - (f) one individual representing water conservancy districts, appointed by the executive director of the Department of Natural Resources; and
 - (g) three Utah residents representing the interests of the agriculture industry appointed by the executive director of the Department of Natural Resources.
- (2)
 - (a) An individual appointed under Subsection (1) shall serve for a term of four years.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the executive director of the Department of Natural Resources shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.
- (3)
 - (a) The presence of five members constitutes a quorum.
 - (b) The vote of five members constitutes the transaction of business by the committee.
 - (c) The committee shall select one of the committee's members to be chair. The committee may select a member to be vice chair to act in place of the chair:
 - (i) during the absence or disability of the chair; or
 - (ii) as requested by the chair.
 - (d) The committee shall convene at the times and places prescribed by the chair.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) The department shall provide administrative support to the committee.
- (6) The committee shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:
 - (a) eligibility requirements for a grant issued under Section 73-10g-206, except that the eligibility requirements shall:
 - (i) require at least a match for grant money of 50% of the total costs, except that for a grant application filed on or after January 1, 2024, the eligibility requirements shall require at least a match of 25% of the total costs for a drip or automated surge irrigation project;
 - (ii) consider the statewide need to distribute grant money;
 - (iii) require a grant recipient to construct or install and maintain one or more measuring devices as necessary to comply with Section 73-5-4 and rules adopted by the Division of Water

- Rights regarding installation, use, and maintenance of devices to measure water use and to demonstrate water use in accordance with a project funded by a grant; and
- (iv) require a grant recipient to report water diversion and use measurements to the state engineer pursuant to Section 73-5-4 and rules made by the state engineer, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for water measurement and reporting;
 - (b) the process for applying for a grant issued under Section 73-10g-206; and
 - (c) preliminary screening criteria to be used by the department under Subsection 73-10g-206(2)
 - (d).
- (7) The committee shall, in coordination with the division:
- (a) as of July 1, 2023, assume oversight of all remaining research and contracts of the previous Agricultural Water Optimization Task Force activities;
 - (b) post research to address and account for farm economics at the enterprise and community level that affects agricultural water optimization and encourage market behavior that financially rewards agricultural water optimization practices;
 - (c) oversee research to identify obstacles to and constraints upon optimization of agricultural water use, and to recommend management tools, technologies, and other opportunities to optimize agricultural water use as measured at the basin level; and
 - (d) facilitate benefits for farmers who optimize water use and protect water quality.
- (8) The committee shall comply with Section 73-10g-206 related to grants issued under this part.

Amended by Chapter 233, 2024 General Session

73-10g-206 Agricultural water optimization grants -- Demonstration of water savings.

- (1) The conservation commission may issue a grant described in Subsection 73-10g-204(3) in accordance with the procedures in this section.
- (2)
 - (a) The committee shall establish funding application periods during which a person may apply for a grant under this part.
 - (b) During a funding application period, a person may file a funding application with the department for preliminary screening of eligibility to receive a grant under this part, including requisite water savings.
 - (c) The department shall screen the funding applications for eligibility.
 - (d) If the department determines that an applicant meets eligibility requirements and proposes water savings, the department shall provide the applicant preliminary approval.
 - (e) After receiving preliminary approval under Subsection (2)(d), the applicant shall engage in a pre-filing consultation with the Division of Water Rights under Subsection 73-3-3(2) to determine whether a change application is required to accomplish the project proposed in the funding application or to quantify saved water .
 - (f) Once the Division of Water Rights determines whether the person is required to file a change application, the person may complete the funding application process and file the completed funding application with the committee.
 - (g) The committee shall review completed funding applications to rank the funding applications and recommend to the conservation commission which applicants should receive a grant under this part for the relevant funding application period.
 - (h) The conservation commission may issue a grant under this section only after receipt of the recommendations of the committee.

- (3) If the conservation commission issues a grant under this part, before the grant recipient may receive the grant money, the grant recipient shall:
 - (a) enter into a contract with the department that includes:
 - (i) the expectations for the grant recipient;
 - (ii) the life expectancy of a project;
 - (iii) the process of certifying completion; and
 - (iv) design requirements;
 - (b) file any needed change application and obtain a final order from the state engineer approving the change application, including any judicial review of the state engineer's order; and
 - (c) demonstrate how the grant recipient shall comply with the requirements of the final order approving the related change application.
- (4) A grant recipient shall comply with the monitoring and reporting requirements under the contract described in Subsection (3).
- (5) The department shall:
 - (a) monitor the grant related activities of a grant recipient;
 - (b) certify a project funded by a grant once the project is complete;
 - (c) determine whether there are funding sources other than the account to fund the grant; and
 - (d) provide information needed by the division or the Division of Water Rights to fulfill the division's or the Division of Water Rights' statutory duties, including those designated in this chapter.
- (6) The department may:
 - (a) conduct outreach campaigns related to the grant program, including the program's purpose and expectations for grant recipients;
 - (b) solicit funding applications and assist persons in applying for a grant under this part;
 - (c) assist grant recipients in developing a project; and
 - (d) coordinate with federal agencies and the division for evaluation of funding applications and for assistance with implementing projects for which funding has been provided under this part.
- (7) Grant money may be used by the department or a grant recipient for the hiring of third-party consultants as appropriate to complete a project funded by grant money.
- (8) The division, upon request from the committee, may assist with evaluation of funding applications and implementation of projects funded under this part.

Amended by Chapter 233, 2024 General Session

73-10g-207 Division public information and reporting.

- (1) The division shall, in coordination with the department and the Division of Water Rights, annually compile and publish a report on:
 - (a) completed projects;
 - (b) saved water made available from agricultural water optimization projects; and
 - (c) the effectiveness of the agricultural water optimization funding programs established by this part.
- (2) On or before November 30 of each year, the committee, division, and the Division of Water Rights shall jointly present the annual report to:
 - (a) the Legislative Water Development Commission;
 - (b) the Natural Resources, Agriculture, and Environment Interim Committee;
 - (c) the Utah Water Task Force within the Department of Natural Resources; and
 - (d) the Utah Watersheds Council.
- (3) The division shall publish reports from research described in Subsection 73-10g-205(7).

Enacted by Chapter 261, 2023 General Session