**R64. Agriculture and Food, Conservation Commission.**

**R64-4. Agricultural Water Optimization Program.**

**R64-4-1. Authority.**

Subsection 73-10g-205(6) authorizes this rule, which requires the Agricultural Water Optimization Committee to establish eligibility requirements for grants issued under Section 73-10g-206, the process of applying for a grant issued under Section 73-10g-206, and preliminary screening criteria for be used by the department under Subsection 73-10g-206(2)(d).

**R64-4-2. Definitions.**

For the purposes of this rule:

(1) "Agricultural Water" means irrigation water beneficially used pursuant to a water right established under Utah law to produce food, fiber, or fuel, or for other agricultural purposes.

(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) "Agricultural Water Optimization Committee" or "Committee" means the committee created in Section 73-10g-205.

(4) "Funding Application" means an application filed under Section 73-10g-206.

(5) "Change application" means an application filed under Section 73-3-3, as further authorized by Section 73-10g-208.

(6) "Commission" means the Utah Conservation Commission created by Section 4-18-104, chaired by the Commissioner of the Utah Department of Agriculture and Food.

(7) "Department" means the Utah Department of Agriculture and Food.

(8) "Grantee" means a person who has received funding through the Agricultural Water Optimization Program.

(9) "Program Manager" means a department employee assigned to oversee the day-to-day activities of the Agricultural Water Optimization Program, or their staff.

(10) "Project" means an undertaking proposed in an application to meet the objectives of Title 73, Chapter 10g, Part 2, "Agricultural Water Optimization" and then implemented consistent with Part 2.

(11) "Saved water" means the same as stated in Section 73-3-3 and as further defined in rules made by the state engineer.

(12) "Critical management area" means a groundwater basin meeting the definition stated in Subsection 73-5-15(1)(a).

**R64-4-3. Purpose-Agricultural Water Optimization Program.**

To increase agricultural water optimization, the Commission shall provide grants in accordance with Sections 73-10g-201 through 73-10g-208 that:

(1) maintain viable agriculture while reducing water depletion to enhance water availability and minimize impacts on water supply, water quality, and the environment;

(2) provide increased operational flexibility to agricultural water users;

(3) provide the opportunity for saved water to be considered a beneficial use if a change application is filed with the State Engineer;

(4) provide additional nonuse protection if a change application is filed; and

(5) improve water quantification through:

(a) showing accurate, real-time measurements of water use; and

(b) documenting actual water savings in cubic feet per second (CFS) or acre feet.

**R64-4-4. Application Requirements.**

(1) Any person who uses agricultural water is eligible to apply for funding under the Agricultural Water Optimization Program.

(2) An applicant shall include the following in an application for a grant under the Agricultural Water Optimization Program:

(a) a description of how the project will meet the purposes listed in Section R64-4-3;

(b) the anticipated use of the saved water, if identified, under the project;

(c) a description of the diversion reduction or depletion decrease that will be made available after the implementation of the project;

(d) an estimate of the cost per acre foot of saved water;

(e) a description of the project and project design, including the:

(i) project cost;

(ii) funding amount requested; and

(iii) estimated completion date;

(f) a list of other funding sources and amounts provided, including an estimate of force account labor and equipment;

(g) the project cost per acre for the places of use for water rights used in the project;

(h) the current method of water measurement used by the applicant;

(i) acknowledgment that the applicant will install and maintain water measurement equipment required for the project;

(j) a map of the project area, showing the county or counties in which, the proposed project will be located;

(k) acknowledgement that the proposed project complies with the applicants approved water rights associated with the project;

(l) a description of any environmental benefits to be gained by funding the project; and

(m) a description of any water quality benefit to be gained by implementing the project.

(3) Incomplete applications will not be considered or ranked.

**R64-4-5. Preliminary Screening-Pre-filing Consultation.**

(1) Department staff will receive and screen each funding application to determine if the application meets the following eligibility criteria:

(a) the project uses agricultural water;

(b) the project is located in Utah;

(c) the applicant has verified that they own or have the right to use the water rights that will be used for the project;

(d) the project is reasonably feasible;

(e) the project reasonably meets program goals;

(f) the applicant is willing to install and maintain water measurement that meets state policy and rules set by the Division of Water Rights (DWRi); and

(g) the project meets funding requirements.

(2) After preliminary approval, each applicant shall meet with the State Engineer or the State Engineer's designee for a pre-filing consultation to determine if their project may benefit from a change application.

(3) Following the consultation with the State Engineer or the State Engineer's designee, pre-approved applications will be filed with the Agricultural Water Optimization Committee for ranking.

**R64-4-6. Agricultural Water Optimization Committee.**

(1) The Agricultural Water Optimization Committee shall consist of the members stated in Section 73-10g-205:

(2) The Committee shall have the following responsibilities:

(a) to establish funding application periods for the Agricultural Water Optimization Program:

(i) the Committee shall establish at least one application period per year; and

(ii) each funding period may have a unique application, eligibility criteria and description of what is required in the application, and ranking criteria used to evaluate the applications submitted;

(b) to review and rank pre-approved applications based on criteria set by the Committee under Section R64-4-7; and

(c) to make funding recommendations to the Commission.

(3) The Committee may designate different funding pools to ensure that similar projects are ranked against each other.

(4) The Commission may award grants based on the recommendations of the Committee.

(5) The Commission may delegate its duties under this rule to a Commission subcommittee.

**R64-4-7. Criteria for Awarding Grants.**

(1) The Committee shall adopt ranking criteria.

(2) The Committee may consider the following in adopting ranking criteria:

(a) how closely proposed projects meets the Agricultural Water Optimization Program goals listed in Section R64-4-3;

(b) who will benefit from the project;

(c) the type of project;

(d) funding sources of the project;

(e) matching funds available for the project;

(f) saved water that will result from the project;

(g) how the water savings will be quantified;

(h) whether the project area has baseline water use data available;

(i) the projected project cost per acre;

(j) whether the project is located in a water right groundwater Critical Management Area;

(k) when the applicant will be ready to begin construction on the project; and

(l) the water quality benefits of the project.

(3) Ranking criteria adopted by the Committee may prioritize projects that lead to greater depletion reduction.

(4) If federal funding has been appropriated for the Agricultural Water Optimization Program, ranking criteria adopted by the Committee shall require that federal funding be awarded prior to state funding.

**R64-4-8. Contracting and Project Requirements.**

(1) Following a grant award by the Commission, the department shall work with each grantee to determine whether there are other funding sources available to fund the project and assist grantees in identifying sources and securing additional funding.

(2) Before receiving funds, grantees shall:

(a) enter into a contract with the department that includes the following:

(i) the expectations for the grantee;

(ii) the life expectancy of the project;

(iii) the process to certify completion of the project;

(iv) any applicable project design; and

(v) metering and reporting requirements consistent with rules established by DWRi, including specifications for the type of meter to be installed;

(b) file any necessary change application with DWRi;

(c) if applicable, obtain a final order from the State Engineer approving the change application; and

(d) if applicable, demonstrate how they will comply with the requirements of the final order.

(3) Before project implementation, grantees shall submit a Utah State Historical Preservation Office Cultural Resource Review report to the program manager pursuant to Section 9-8a-404. No payment reimbursement will be processed until the program manager has received the report.

(4) The department may issue a notice to proceed to a grantee before project construction.

(5) During the life of the project, the department shall:

(a) monitor grant related activities; and

(b) certify project completion.

(6) The program manager may conduct on-site or virtual project "spot checks" at any time during the life of the project.

(7) Projects may be evaluated through the U.S. Environmental Protection Agency's Spreadsheet Tool for Implementing Pollutant Loads module (STEPL) or Pollutant Load Estimation Tool (PLET), photo monitoring, or other monitoring depending on the type of project.

**R64-4-9. Reporting Requirements.**

(1) For three years after construction of a project is completed, grantees shall submit reports to the program manager at least annually, or more often if requested in writing by the program manager.

(2) Failure to submit the required reporting may result in a requirement to return Agricultural Water Optimization Program funds, or ineligibility to receive funds in the future.

**KEY: agriculture, water optimization, grants**

**Date of Last Change: December 17, 2024**

**Authorizing, and Implemented or Interpreted Law: 73-10g-205; 73-10g-206**