01-001 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY **DIVISION OF AGRICULTURAL RESOURCE DEVELOPMENT**

**Ch. 38: RULES FOR OPERATION OF THE FARMERS DROUGHT RELIEF FUND**

1. **DEFINITIONS**
	1. “Agricultural produce” means food, feed, fiber, forage, and oilseed crops that are useful to humans, including forages and sod crops, grains and food crops, fruits, berries, vegetables, flowers, seeds, and grasses.
	2. “Agricultural Water Management Plan” means a plan for the development and use of water resources to sustain the growth of agricultural produce on a farm.
	3. “Cropland” means land that is used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, including cultivated cropland in row crops, small grain crops, hay crops, nursery crops, orchard crops, and non-cultivated cropland, such as permanent hay land and horticultural cropland.
	4. “Department” means the Maine Department of Agriculture, Conservation and Forestry.
	5. “Farm” means the aggregate of all agricultural land, equipment, and all related facilities and crops, regardless of their location or ownership within the State of Maine, that form part of an integrated agricultural business or enterprise.
	6. “Farmer” means the owner or operator of cropland, which may include one or more individuals, partnerships, corporations, or associations that produce gross annual sales of agricultural products of at least $10,000 in at least one of the previous three years. This term may also apply to an owner or operator of a farm that produces gross annual sales of agricultural products of at least $2,000 and who can demonstrate that the farm provides unique benefits to the local food economy as determined by the Commissioner or that the owner or operator has an ancestral history of disinvestment or land dispossession in the State of Maine.
	7. “NRCS” means the United States Department of Agriculture Natural Resources Conservation Service, its Maine State Office, and associated Field Offices.
	8. “Soil health practices” means the use of conservation cover, contour buffer strips, cover crops, crop rotation, no-till or reduced tillage, or similar practices as specified by NRCS.
	9. “Water conservation practices” means the use of drip irrigation, water storage, compost and mulching, water-conserving plants, or similar practices.
2. **PROGRAM FUNDING**
	1. As established in 7 M.R.S. § 220-A(3), the Farmers Drought Relief Fund (the “Fund”) is funded by appropriations from the State general funds and from any other contributions to the Fund.
	2. The Fund may accept funding from private and public sources.
	3. The Commissioner may allocate funds among funding categories on an annual basis.
3. **CATEGORY 1 GRANT: AGRICULTURAL WATER MANAGEMENT PLANS**
	1. **Criteria for Eligibility**. An applicant is eligible for consideration of receiving a Category 1 Grant for the creation of an Agricultural Water Management Plan upon a clear demonstration of the following:
		1. The applicant is a farmer and the owner or operator of cropland in the State of Maine; and
		2. The applicant can demonstrate gross sales of agricultural produce of $10,000 or more per year or otherwise has demonstrated to the Department’s satisfaction that it meets the definition of Farmer in Section 1(6).
	2. **Application Requirements**. The applicant shall submit a written application on forms provided by the Department, including information or statements showing:
		1. The applicant meets the eligibility criteria for the grant; and
		2. The applicant clearly describes the purpose and need for water source development for their cropland.
		3. The applicant addresses any instructions or requirements outlined in the Department’s funding announcements and/or forms that improve the Review Committee’s ability to score the application according to the selection criteria.
	3. **Required Plan Contents**. The Agricultural Water Management Plan must be prepared by a pre-qualified technical service provider knowledgeable in agricultural water management as determined by the Department. Agricultural Water Management Plans shall include:
		1. Specific location of the farm as defined by street address or GIS coordinates;
		2. Name of current owner(s) and operator(s) of the farm;
		3. A description of the farm’s production goals and management practices;
		4. A description of existing and proposed water sources;
		5. A description of existing and proposed crops with estimated length of growing season for those crops and their predicted agronomic water demand;
		6. A map or aerial photograph delineating existing and proposed croplands;
		7. A soils map delineating soils by name in accordance with NRCS standards;
		8. A description of soil texture, moisture holding capacity, and depth to impervious layer for each field or area used for crops;
		9. A table of daily rainfall and evapotranspiration data for the general area from the nearest National Weather Service Forecast Office or the Maine Climate Office;
		10. A description of highly erodible soils, steep slopes, wetlands, and any other environmentally sensitive areas on the farm; and
		11. A summary of the total number of acres to be irrigated, the projected amount of water needed, a cost-benefit analysis of water source options, and a description of proposed water conservation practices.
	4. **Application Approval Process**. Grant funds availability will be made on an annual basis through a public grant solicitation process. Grants will continue to be made subject to the availability of funding. Grant awards will be limited to one per applicant in a two-year period.
		1. The Department will utilize a Review Committee to score all applications. The Committee will include staff from the Bureau of Agriculture, Food & Rural Resources, and may include representatives from the Maine Geological Survey, the Department of Environmental Protection, individuals with established agricultural expertise, or other members whose expertise the Department finds useful in evaluating the merits of projects.
		2. The Review Committee will use the following selection criteria to judge the merits of the project applications. The point system outlined is a guide to the importance of each section to be evaluated in the application:
			1. **Eligibility Criteria:** Conformance with Section 3.1. Pass/Fail
			2. **Management Capacity**: The management capacity of the applicant based upon the number of years farming and other related experience and training; the applicant’s decision-making authority over the land and resources; the applicant’s use of soil health or water conservation practices.
			3. **Physical Resource Base**: The suitability and productivity of the farmland for its intended agricultural use, based on soils, topography, and land cover; the physical condition of buildings and equipment, and other assets needed to maintain and increase productivity of the farm.
			4. **Economic Impacts**: Evidence of adverse impacts from prior incidents of drought or water insufficiency, or the potential for economic damage needing risk reduction.
			5. **Environmental Impacts**: Sensitivity of water resources to potential low-flow conditions, environmental stress associated with current or projected water use practices.
			6. **Commissioner’s designation** of a geographic area or crop sector as a high priority for assistance.
		3. Unsuccessful applicants may appeal the decision to the Department. Appeals shall be governed by Department rules chapter 01-001 CMR c. 8.
	5. **Procedure for Payment of Grant Proceeds**
		1. For applicants selected for Category 1 Grants, the Department will directly pay the applicant or an approved pre-qualified vendor up to a maximum of $7,500 upon submission, timely review, and approval of the Agricultural Water Management Plan and an invoice for work performed. If the cost of the Agricultural Water Management Plan exceeds $7,500, the Department may directly pay the applicant or approved pre-qualified vendor up to a maximum of $7,500 upon receipt of a statement that shows the remaining balance has been paid by the grantee.
4. **CATEGORY 2 AGRICULTURAL WATER SOURCE DEVELOPMENT GRANTS**
	1. **Criteria for Eligibility**. An applicant is eligible for consideration for a Category 2 Agricultural Water Source Development Grant upon a clear demonstration of the following:
		1. The applicant is a farmer and the owner or operator of cropland in the State of Maine;
		2. The applicant can demonstrate gross sales of agricultural produce of $10,000 or more per year or otherwise has demonstrated to the Department’s satisfaction that it meets the definition of Farmer in Section 1(6); and
		3. The applicant has a current and approved Agricultural Water Management Plan for use of the water source that is consistent with Section 3(3) of these Rules. The Department may accept plans prepared by NRCS or other individuals with relevent expertise.
	2. **Application Requirements**. The applicant shall submit a written application on forms provided by the Department, including information or statements showing:
		1. The applicant meets the eligibility criteria for the grant;
		2. The applicant attaches a copy of its Agricultural Water Management Plan;
		3. The applicant clearly describes the purpose and need for water source development for their cropland;
		4. The applicant provides a budget for the proposed project, including the applicant’s 10% match of total project cost which may include in-kind services;
		5. The applicant addresses any instructions or requirements outlined in the Department’s funding announcements and/or forms that improve the Review Committee’s ability to score the application according to the selection criteria;
		6. The proposed water source will be used for irrigation of cropland. Funded sources of water supply shall not be used to support livestock, residential consumption, or commercial processing without an express waiver from the Commissioner to allow additional uses that do not impair cropland irrigation or result in increased environmental impacts;
		7. The applicant’s existing or proposed water source meets all requirements of the Maine Department of Environmental Protection’s Low Flow Rule (06-096 C.M.R. ch. 587, adopted August 24, 2007). The Department will consult with the Department of Environmental Protection to make this determination;
		8. The proposed project will not duplicate financial assistance from NRCS for the same practice; and
		9. The applicant has applied for or obtained any required permits. Copies of any permits required for the project shall be submitted with the application. If any required permits are not approved by the date of grant application, the applicant shall submit letter(s) from the permitting agency(s) explaining the status of the permits.
	3. **Eligible Uses for Grant**. Grant funds may be used for the following:
		1. Installation of a drilled bedrock water well in compliance with Well Drillers and Pump Installers Rules (10-144 C.M.R. ch. 232);
		2. Installation of a dug water well;
		3. Deepening of an existing dug water well;
		4. Installation of a water storage pond in compliance with NRCS Practice Standard 378 or subsequent Practice Standards for water storage ponds;
		5. Installation of a gravel-packed well in a sand or gravel aquifer; or
		6. Water pumps and necessary appurtenant equipment.
	4. **Application Approval Process**. Grant funds availability will be made on an annual basis through a public grant solicitation process. Grants will be made subject to availability of funding. Grant awards will be limited to one per applicant in a two-year period.
		1. The Department will utilize a Review Committee to score all applications. The Committee will include staff from the Bureau of Agriculture, Food & Rural Resources and may include representatives from the Maine Geological Survey and the Department of Environmental Protection, individuals with established agricultural expertise, or other members whose expertise the Department finds useful in evaluating the merits of projects .
		2. The Review Committee will use the following selection criteria to judge the merits of the project applications. The point system outlined is a guide to the importance of each section to be evaluated in the application:
			1. **Eligibility Criteria:** Conformance with Section 4.1. Pass/Fail
			2. **Cost**: The applicant has clearly itemized all costs, and they are reasonable; the applicant has demonstrated adequate resources to provide a matching share for the project which may include in-kind services. Priority may be given to proposals which demonstrate usage of NRCS financial assistance for irrigation system components in conjunction with the proposed water source.
			3. **Physical Resource Base**: The suitability and productivity of the farmland for its intended agricultural use, based on soils, topography, and land cover; the physical condition of buildings and equipment, and other assets needed to maintain and increase productivity of the farm.
			4. **Economic Impacts**: Evidence of adverse impacts from prior incidents of drought or water insufficiency. The suitability and productivity of the farmland for its intended agricultural use, the physical condition of buildings and equipment, and other assets needed to maintain and increase productivity of the Farm Business.
			5. **Environmental Impacts**: The project will replace or avoid use of water resources with potential low-flow conditions; the project will reduce environmental stress associated with current ~~or prior~~ water use practices; the project will demonstrate use of appropriate soil health or water conservation practices.
			6. **Commissioner’s designation** of a geographic area or crop sector as a high priority for assistance.
		3. Projects not receiving funding shall remain on the list of eligible applicants for future rounds of funding for three (3) years without requiring reapplication to the Department unless material changes to the original project have occurred. The Department may request applicants to confirm details of their application or to address updated requirements prior to reconsideration for funding.
		4. Unsuccessful applicants may appeal the decision to the Department. Appeals shall be governed by Department rules chapter 01-001 CMR c. 8.
	5. **Procedure for Payment of Grant Proceeds**
		1. Upon presentation of a written estimate or quote as to the cost of a project, the Department will commit to fund 90% of that estimate or quote, up to a maximum payment of $15,000 for a dug well, $25,000 for a drilled bedrock well or $50,000 for a water storage pond or gravel-packed well. Upon presentation of a certificate of completion and lien waivers signed by the applicant and by any contractors who provided materials or services to the project, the Department shall issue payment in the amount determined above. The Department or its designee will conduct a site review before issuing the final payment to determine that the project has been developed and implemented in accordance with the provisions in Section 4(3) of these Rules.
		2. Approved projects must be completed within five (5) years of the grant award approval date unless the awardee requests an extension prior to the specified completion date and the extension is approved by the Commissioner.
		3. Completed projects may be subject to periodic inspection by the Department for up to ten (10) years from the project’s completion date. Completed projects will also be required to provide occasional survey responses or other reporting to the Department regarding the project benefits.
5. **ADDITIONAL FUNDING PROJECTS**
	1. **Special Projects**.
		1. The Department may reserve funds available in the Farmer Drought Relief Fund for the development of special projects that demonstrate innovative technology related to agricultural water source development. The Department may provide eligibility and review criteria in specific grant solicitation materials. The objectives of special projects are to implement short-term applied research to effectively resolve unexpected technical problems and/or to test new technologies. Special projects may be submitted by qualified individuals, firms, agencies, or organizations for testing new technologies and for research on technical problems related to agricultural water management and irrigation.
		2. The Department may establish specific criteria for awarding funding for special projects demonstrating potential to increase drought resiliency or reduce water use, energy use, or labor through improved agronomic practices, soil moisture monitoring, stormwater runoff retention, or other means. Such criteria will be included in the grant solicitation materials.
	2. **Contingencies**.
		1. If a drilled well approved for Category 2 funding under Section 4 of these Rules does not yield an acceptable amount of water based on the approved agricultural water management plan, an applicant may submit a report from the well driller and a request for additional funding. Subject to the availability of funds, the Department may grant additional funding for drilling a second well up to the maximums specified in Section 4(5)(A) of these Rules.
		2. Subject to the availability of funds for Category 2 funding, the Department may grant funds to supplement a landowner’s matching share for financial assistance from NRCS for the development of an agricultural water source under the NRCS Environmental Quality Incentives Program (EQIP) or Agricultural Management Assistance Program (AMA), provided that the applicant submits copies of all relevant NRCS contracts, plans, and cost sheets, and demonstrates that the actual cost of materials or services listed under Section 4(3) of these Rules exceeds current NRCS Payment Schedules for these items.

STATUTORY AUTHORITY: 7 M.R.S. §§ 12, 220-A(4).

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