

**224.71-120 Agriculture water quality plans -- Monitoring -- Water priority protection regions -- Plan modifications.**

Each agriculture operation shall establish an agriculture water quality plan as follows:

- (1) In the case of an agriculture operation which already has in place a conservation plan, compliance plan, or forest stewardship management plan, the agriculture water quality plan for that agriculture operation shall be the conservation plan, compliance plan, or forest stewardship management plan until the time the statewide agriculture water quality plan for agriculture is developed, approved, and incorporated into the existing plan.
- (2) All persons engaged in agriculture operations are encouraged to follow the best management practices provided by the Soil and Water Conservation Commission in the "Agriculture Best Management Practices Manual" until the statewide agriculture water quality plan is developed and approved.
- (3) The approved statewide agriculture water quality plan shall establish the applicable requirements to be used by the technical agencies in assisting persons engaged in agriculture operations in the revision and modification of their conservation plans, compliance plans, or forest stewardship management plans. Within five (5) years of the approval of the statewide agriculture water quality plan, persons engaged in agriculture operations across the state shall implement the applicable requirements of the statewide plan. A person engaging in agriculture operations where water pollution has been documented by the cabinet shall be presumed to be in compliance with KRS 224.71-100 to 224.71-140 if that person has timely and properly implemented the applicable requirements of the statewide agriculture water quality plan. If it is determined that the plan does not prevent the documented water pollution, it shall be the responsibility of the Agriculture Water Quality Authority, not the agriculture operations, to identify the necessary modifications to the plan to prevent the documented pollution. The Commonwealth of Kentucky, through the conservation districts, shall assure that technical assistance is made available to assist persons engaged in agriculture operations with the implementation of the statewide plan requirements. The Commonwealth of Kentucky recognizes the public benefit of providing the financial resources necessary to protect groundwater and surface water and may make available cost share dollars to assist persons engaged in agriculture operations with the implementation of their plans as resources become available. The time for compliance with an agriculture water quality plan may be extended based on the availability of technical and financial assistance.
- (4) To ensure the success of agriculture's plan to protect groundwater and surface water, available statewide monitoring data shall be used to identify trends in water quality across the state and to complement the groundwater assessment program of KRS 247.088. This data shall help identify water protection priority regions, develop a scientific water quality database, and develop sensitivity map information. As priority areas are identified on a regional or local basis, efforts shall be made to conduct an intensive monitoring program by the Division of Water, in cooperation with Kentucky Geological Survey, and the Agriculture Water Quality Authority, to

investigate known or suspected instances of groundwater pollution.

- (5) The cabinet's Division of Water shall notify in writing the local conservation districts, the Soil and Water Conservation Commission, and the Agriculture Water Quality Authority that water pollution from agriculture operations within a region has been documented through data collected from monitoring efforts. The Division of Water, working with the Agriculture Water Quality Authority, shall designate water priority protection regions where it is documented that agriculture is contributing to water quality pollution problems. If the cabinet's Division of Water identifies water pollution in a region, the authority shall reevaluate the effectiveness of the best management practices, and the applicable provisions of the statewide agriculture water quality plan in effect for agriculture operations in that region. Working with the Soil and Water Conservation Commission and the conservation district, the Agriculture Water Quality Authority shall develop a regional agriculture water quality plan and assist persons engaged in agriculture operations in the identified region in taking the appropriate steps to modify their agriculture water quality plan.
- (6) Upon notice from the cabinet's Division of Water that water pollution from agriculture operations has been documented in a water priority protection region of the state, the Soil and Water Conservation Commission and local conservation districts shall provide notice to persons engaging in agriculture operations within the region of the availability of any technical and financial assistance. The notice shall also state that, in order to qualify for any available assistance, the person engaging in agriculture operations shall comply with the regional water quality plan. The notice shall be in a form which shall not limit the ability of a person engaged in agriculture operations to participate in state and federal assistance programs. The Division of Water and the conservation districts, in consultation with the Agriculture Water Quality Authority, shall set the time for implementation of the regional water quality plan.
- (7) A person engaging in agriculture operations in an agriculture water priority protection region shall implement the regional plan with assistance from the commission, the conservation districts, and the Division of Water.
- (8) Persons engaged in agriculture operations may obtain modifications of any statewide or regional agriculture water quality plan by submitting the proposed modification for review to the appropriate conservation district in accordance with the procedure established in the statewide agriculture water quality plan. The conservation district shall review proposed modifications and make a recommendation to the Agriculture Water Quality Authority for consideration. If the authority recommends approval of the modification, the cabinet's Division of Water shall approve or disapprove the modification on at least a quarterly basis, unless otherwise provided in the statewide agriculture water quality plan.
- (9) A person engaging in agriculture operations who is in a water priority protection region where water pollution has been documented by the cabinet shall be presumed to be in compliance with KRS 224.71-100 to 224.71-140 if that person has timely and properly implemented the practices required by the portions of the regional

agriculture water quality plan which apply to that person's activities.

- (10) Where there is documented evidence of a violation of water pollution laws or administrative regulations traceable to a specific agriculture operation, the provisions of KRS 224.71-130 shall govern the resolution of the violation.

**Effective:** July 15, 1994

**History:** Created 1994 Ky. Acts ch. 182, sec. 3, effective July 15, 1994.