

CHAPTER 185
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 158

AN ACT TO AMEND TITLES 3 AND 7 OF THE DELAWARE CODE RELATING TO WATER ALLOCATION PERMITS AND LICENSES, OR PERMITS TO CONSTRUCT, EXTEND, OR OPERATE AN IRRIGATION WELL OR SURFACE WATER INTAKE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 6004 (c) (3), Title 7 of the Delaware Code by deleting “50,000” and substituting in lieu thereof “1,000,000.”

Section 2. Amend § 6010, Title 7 of the Delaware Code by adding new sections (i), (j), (k) and (l) to read as follows:

(i) The Secretary shall waive the requirements of § 6004 (b) for irrigation wells if:

- (1) The permit application is submitted between and April 1 and October 1, inclusive;
- (2) The permit application is to replace an existing irrigation well;
- (3) The existing well has a valid allocation permit, and
- (4) The replacement well will not exceed allocation permitted amounts.

(j) An emergency circumstance is deemed to exist if a well will replace an existing well and if the Department of Agriculture and/or the Department of Natural Resources and Environmental Control determines that the lack of water or delay in obtaining water poses an immediate and significant danger to the health or welfare of persons or their property, or if one or both of the Departments have determined that other exceptional circumstances exist. Verbal approval must be given for the installation of a well if an emergency circumstance exists, provided that:

(1) Within seventy-two (72) hours after the verbal issuance of a permit number under emergency circumstances, the applicant submits to the Department a well permit application and well completion report, which must include the permit number.

(2) All wells constructed under emergency circumstances must be constructed in conformance with all applicable regulations and officially established policies.

(k) If an emergency circumstance exists when State offices are closed, a well may be constructed, providing that it replaces an existing well and that the Department is notified verbally on the first working day following such action. A well permit application, including the well permit number, the appropriate application fee, and a well completion report must be submitted within seventy-two (72) hours after notification.

(l) The following persons shall serve on an advisory committee that oversees the agriculture irrigation well procedures:

- 1 the Secretary of Agriculture, or the Secretary’s designee;
2. the Secretary of the Department of Natural Resources and Environmental Control, or the Secretary’s designee;
3. one (1) person to represent the Delaware Farm Bureau;
4. one (1) person to represent the Fruit and Vegetable Growers Association of Delaware;
5. one (1) person who is an irrigation dealer;
6. one (1) person who is a commercial irrigation well driller;
7. one (1) person from the University of Delaware Water Resources Agency; and
8. one (1) person from the Delaware Geological Survey.

The Secretary of Agriculture and the Secretary of the Department of Natural Resources and Environmental Control shall determine that the committee members meet the above descriptions. The Secretary of Agriculture, or the Secretary’s designee, shall serve as the chairperson of the advisory oversight committee.”.

Approved August 17, 2011