



Agriculture and Markets

ANDREW M. CUOMO
Governor

RICHARD A. BALL
Commissioner

July 29, 2013
(Revised to reflect 2016 Amendments)

MEMORANDUM

TO: County Legislative Bodies,
County Agricultural and Farmland Protection Boards,
County Planning Departments,
County Cornell Cooperative Extension,
County Soil and Water Conservation Districts:

FROM: Michael Latham, Director

RE: Whether the Agriculture and Markets Law (AML) §303-b annual inclusion process must be conducted simultaneously with an AML §303-a review which is conducted in the same year.

AML §303-b (1) states, in part, that “The legislative body of any county containing a certified agricultural district shall designate an annual thirty-day period within which a land owner may submit to such body a request for inclusion of land which is predominantly viable agricultural land within a certified agricultural district *prior to the county established review period.*” (emphasis added) One of the purposes of this statute is to provide agricultural landowners with an opportunity to add land to an existing agricultural district outside of the review periods for agricultural districts established pursuant to AML §303-a.

The Department has determined that counties should not be required to act on requests to add individual parcels of land under AML §303-b when the request is submitted during the course of a timely and active review of a district by a county. AML §303-a (4) requires that the district review process be completed before the district’s anniversary date. [See Chapter 35 of the Laws of 2016]. The Department sends counties a notice approximately one year prior to a district’s anniversary date to remind them when a district is up for review.

In the Department’s view, one year is a reasonable time frame to complete a district review. Thus, if a county initiates a review by publishing and posting notice, but does not complete the review prior to the district’s anniversary date, the county should act on landowner requests submitted under §303-b after the anniversary date passes.

Example: A county’s AML §303-b annual inclusion period is April 15 to May 15 each year and the subject agricultural district(s) anniversary date is March 15th of the following year.



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If the county publishes and posts the 30-day notice required by AML §303-a (2)(a) prior to April 15th, the county is not required to conduct an AML §303-b annual inclusion process that year. The county's 30-day notice should explain that the AML §303-b process will not be available that year and that any landowner wishing to add land to these agricultural districts must submit their request during the AML §303-a review.

If the county has any agricultural districts with an anniversary date *prior to* April 15th in any given year, however, the county must undertake the AML §303-b process that year since the annual inclusion period starts after the anniversary date for the agricultural district(s).

I hope that this information is helpful as you conduct agricultural district reviews and annual inclusions. Please feel free to contact me or John Brennan at (518) 457-3738 if you have any questions. If the County Attorney has questions, he or she may contact Department Associate Attorney John Rusnica at (518) 457-2449.