

RULES AND REGULATIONS KANSAS WATER APPROPRIATION ACT

(Excerpted)
November 2019

K.A.R. 5-25-21. Alternative method for calculating the amount of water deposited in a multiyear flex account. Each water right owner within the boundaries of the district who is otherwise eligible to establish a multiyear flex account under K.S.A. 82a-736, and amendments thereto, and the implementing regulations and who meets all of the requirements in subsection (b) shall be eligible to use the alternative calculation method in subsection (a) pursuant to K.S.A. 82a-736(c)(1)(D)(iii), and amendments thereto, to determine the amount of water deposited in the multiyear flex account.

(a) The alternative calculation method for the district shall be to compute 450 percent of the base water right's certified appropriation. However, the amount of water deposited in the multiyear flex account shall not exceed the greatest of the quantities derived using the calculation methods specified in K.S.A. 82a-736(c)(1)(D), and amendments thereto.

(b) To be eligible to use the alternative calculation method specified in subsection (a), the following requirements shall be met and shall remain met throughout the term of the period covered by the multiyear flex account permit:

(1) The owner shall meet all requirements and conditions for eligibility and participation specified in K.S.A. 82a-736, and amendments thereto, and the implementing regulations, except as modified by this regulation.

(2) The owner's base water right shall be for a center pivot irrigation system with a functional end gun.

(3) The owner shall remove the end gun from the center pivot and cap the end.

(4) Before diverting any water under the multiyear flex account, the owner shall certify to the chief engineer, on forms supplied by the chief engineer, the following information:

(A) The location of the tract of land to be covered by the multiyear flex account term permit;

(B) the length of each center pivot system covered by the multiyear flex account term permit;

(C) the type of end gun removed and any other information sufficient to enable the chief engineer to determine the number of acres irrigated by the end gun; and

(D) the date of removal of the end gun.

(5) The owner shall maintain the center pivot without an end gun for the duration of the period covered by the multiyear flex account term permit.

(6) The authorized place of use shall not be increased during the term of the multiyear flex account permit.

(7) The authorized place of use shall be located wholly within the boundaries of the district.

(c) If the owner qualifies for a multiyear flex account term permit and is eligible under this regulation to use the alternative calculation method, the chief engineer shall enter an order that reduces the authorized place of use of the owner's base water right during the multiyear flex account permit term. The reduced authorized place of use shall be equal to the maximum number of acres legally irrigated by the center pivot system for the previous five calendar years minus the number of acres irrigated by the center pivot system's end gun. (Authorized by K.S.A. 82a-706a and K.S.A. 2015 Supp. 82a-1028; implementing K.S.A. 2015 Supp. 82a-736; effective March 25, 2016.)