

Kansas Administrative Regulations

Kansas Department of Agriculture—Division of Conservation

Article 12.—Water Right Transition Assistance Pilot Project Program

11-12-3. Application and review.

(a) The application periods for the program shall be October 1 through November 15 and February 15 through March 31.

(b) Notification of the program shall be published in the Kansas register before each application period.

(c) The program procedures and application forms shall be available at the division office and at conservation district offices.

(d) Each application shall be submitted on a form supplied by the division. The application shall include all of the following:

(1) The name, address, telephone number, and tax identification number of the owner of the water right;

(2) the water right file number and the priority date of the water right;

(3) the location of the point of diversion;

(4) documentation of the annual water usage, in acre-feet, for the previous 10 years of actual irrigation;

(5) the authorized annual quantity of water associated with the water right;

(6) the bid price expressed on a "per acre-foot of historic consumptive water use" basis;

(7) if the land is going to be planted to permanent cover, a dry land transition plan;

(8) documentation that verifies historical crop information for the previous 10 years of actual irrigation;

(9) documentation of the normal rate of diversion during the normal irrigation season. If the documentation is not based on data from an accurate water flowmeter, the results of a certified well flow rate test conducted no more than six months before the application date by a person or entity approved by the chief engineer and in a manner prescribed by the chief engineer shall be used for this documentation;

(10) the total amount of historic consumptive water use available for permanent retirement or permanent reduction under the water right as determined from the calculation method specified in K.S.A. 2-1930, and amendments thereto; and

(11) the total amount of historic consumptive water use being proposed for permanent retirement of a water right or permanent reduction of a water right and specification of whether only a partial water right is being submitted for permanent retirement in the application.

(e)(1) Upon the division's receipt of each application, it shall be reviewed for completeness by the division. If the application is not complete, the missing information shall be provided by the applicant to the division within 30 calendar days of the division's written request.

(2) After the application is determined to be complete, the application shall be provided by the division to the chief engineer to determine the eligibility of the water right.

(f) Upon completion of the review by the chief engineer, the following certifications shall be requested by the division from the chief engineer:

(1) A statement indicating whether the water right is an eligible water right;

(2) the historic consumptive water use associated with each water right or portion of a water right;

(3) the potential impact of dismissing or permanently reducing the water right on aquifer restoration or stream recovery; and

(4) any other additional documentation necessary to quantify or qualify the water use reports.

(g) Comments and recommendations from the appropriate GMD shall be requested by the division regarding WTAP applications in any target area within that GMD. The chief engineer and the appropriate GMD shall be notified by the division regarding approval or disapproval of any WTAP applications in any target area within that GMD.

(h) Each applicant shall be notified by the division of the approval or the disapproval of the program application no later than 60 calendar days after the close of the application period in which the application is filed. If an application is not approved, the

application, water right dismissal form, and all other related documents shall be considered void and shall be returned to the applicant.

(i) Any application meeting the requirements of this article may be approved contingent upon funding and the receipt of official documentation by the division that the water right has been dismissed by the chief engineer and its priority has been forfeited.

(j) The negotiations between owners and lessees regarding program participation shall not involve the commission or the division.

(k) No more than 10 percent of a county's irrigated acres shall be eligible for the duration of this program.

(l) Each program application that does not meet the requirements of these regulations shall be rejected by the division.

(Authorized by and implementing K.S.A. 2012 Supp. 2-1930 and 2-1930a; effective Aug. 3, 2007; amended Sept. 26, 2008; amended May 31, 2013.)

***** Authenticated Kansas Administrative Regulation *****