

Kansas Administrative Regulations

Kansas Department of Agriculture—Division of Water Resources

Article 19.—Local Enhanced Management Areas

5-19-2. Fixed allocations in a LEMA; LEMA plans.

(a) Before a GMD's board of directors recommends formal approval of a LEMA plan and submission of the plan to the chief engineer for review, the GMD's board of directors or staff may request the division to assist in the development of the LEMA plan or to informally review the LEMA plan.

(b) A fixed allocation may allow water use in a given calendar year to exceed a water right's annual authorized quantity, but a fixed allocation assigned to a group of water rights shall not permit annual diversions by any water right in the group to exceed the water right's authorized annual quantity multiplied by the number of years in the proposed LEMA term.

(c) A fixed allocation proposed by a LEMA with an initial term beginning after the effective date of this regulation shall not be based on the historical water use of an individual water right or a group of water rights, unless it is demonstrated to the satisfaction of the chief engineer that a fixed allocation based on the historical water use of an individual water right or group of water rights gives due consideration to water management or conservation measures previously implemented by a water right holder in accordance with K.S.A. 82a-744, and amendments thereto, and does not constitute a waste of water as defined in K.A.R. 5-1-1, and amendments thereto. Each fixed allocation proposed by a LEMA with an initial term beginning after the effective date of this regulation shall be based on the overall goal of the LEMA and either:

- (1) The authorized annual quantity of each water right or group of water rights;
- (2) the authorized acres, or the base acreage as defined in K.A.R. 5-5-11, of each water right or group of water rights;
- (3) a percentage of the current reasonable use of each water right or group of water rights; or

(4) another method that the chief engineer determines gives due consideration to water management or conservation measures previously implemented by a water right holder in accordance with K.S.A. 82a-744, and amendments thereto, and does not constitute a waste of water as defined in K.A.R. 5-1-1, and amendments thereto.

(d) For irrigation water rights that overlap in place of use with other water rights, each fixed allocation proposed by a LEMA with an initial term beginning after the effective date of this regulation shall be limited among the overlapping rights based on the authorized acres that are shared by the water rights or the base acreage as defined in K.A.R. 5-5-11 that is shared by the water rights.

(e) A fixed allocation may consider water right priority and impact to the shared water resource.

(f) In addition to the requirements for LEMA plans specified in K.S.A. 82a-1041 and amendments thereto, each GMD that recommends approval of a LEMA plan and formally submits the LEMA plan to the chief engineer shall ensure that the LEMA plan includes the following:

(1) Each condition specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, that the LEMA plan is intended to address;

(2) a statement of each goal that the LEMA plan is intended to achieve;

(3) documentation that quantifies how any corrective controls that establish allocations, including multi-year allocations that allow use in excess of a water right's annual authorized quantity in a given calendar year, reductions, or limitations to water use would affect existing water rights;

(4) an appropriate appeals procedure for water right owners based on the corrective controls implemented;

(5) an executive summary of the proposed goals and corrective controls;

(6) documentation, evidence, or other information indicating that the proposed corrective controls will meet each stated goal of the proposed LEMA plan;

(7) a description of how the boundary of the proposed LEMA was determined;

(8) a description of how due consideration was given to water users who already have implemented reductions in water use resulting in voluntary conservation measures if the corrective controls result in any allocations, reductions, or limitations of water

rights that are based on past use. If applicable, the description shall include the following:

(A) An explanation of the criteria or methods used to address voluntary water management or conservation that reduced water usage; and

(B) a requirement that any owner or holder of a water right provide documentation of any voluntary conservation that resulted in the use of less water;

(9) if applicable to the LEMA plan, specification of how past reductions in water use resulting in voluntary conservation will be considered in any appeal process provided; and

(10) if a stated goal of the LEMA plan is to address an impairment or there are known cases of impairment within the LEMA, an explanation of how each impairment is legally addressed.

(g) A separate memorandum containing a summary of the public outreach conducted by the GMD before recommending the LEMA plan for approval shall be submitted simultaneously with the LEMA plan and shall include a description of any changes made to the LEMA plan due to any public comments.

(h) If the stated goal of a LEMA plan is to improve water quality, the GMD's board of directors or staff may consult with the chief engineer before formal submission of the proposed LEMA plan to determine which requirements in subsections (b) and (c) are applicable and to determine any other information necessary in order for the chief engineer to perform a review of the LEMA plan.

(Authorized by and implementing K.S.A. 2025 Supp. 82a-1041; effective Dec. 27, 2021; amended April 10, 2026.)

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