

Kansas Administrative Regulations

Kansas Department of Agriculture—Division of Water Resources

Article 5.—Change in the Place of Use, the Point of Diversion or the Use Made of Water Under an Existing Water Right

5-5-10. Partial changes in the use made of water from irrigation to another type of beneficial use of water.

(a) If an irrigation right is to be divided and only a portion of the rate and quantity will be changed to a different beneficial use of water, only that portion of the annual quantity of the water right being changed to a different type of beneficial use of water shall be reduced as necessary to prevent the net consumptive use from increasing.

(b) The authorized place of use for the irrigation right may be reduced in proportion to the reduction in annual quantity caused by the change. If the irrigator wants to retain more than that person's proportional allotment of acres after the change, the procedures specified in K.A.R. 5-5-11(b)(2)(B)(ii) shall be followed to determine whether the irrigator shall be allowed to retain more acreage.

(c) The authorized rate of diversion shall be divided between the irrigation use and the non-irrigation use. Each reasonable division of the rate by the parties shall be approved. A reasonable division of the rate shall be based on the actual rate of withdrawal at the time of the application and the existing physical conditions of the water source at the time of the application. The division of the maximum rate of diversion shall not be required to be proportional to the division of the quantity if the division of the rate of diversion is reasonable to divert each portion of the annual quantity of water after the division of the water right is made.

(d) The division of the annual quantity shall be calculated as follows:

(1) Calculate the maximum quantity that could be changed to another type of beneficial use of water if the entire water right were changed pursuant to K.A.R. 5-5-9(a)(1).

(2) Divide the annual quantity sought to be changed to the new beneficial use of water by the maximum quantity that could be changed if the entire water right were changed. The result shall be the percentage of the entire reduced water right that will be changed to the new beneficial use of water. The remaining percentage of the current water right may be retained by the irrigation water right owner.

(3) Multiply the remaining percentage times the total currently authorized quantity. The result shall be the annual quantity of water that may be retained by the irrigation water right owner.

(Authorized by K.S.A. 82a-706a; implementing K.S.A. 2016 Supp. 82a-708b; effective Nov. 28, 1994; amended Sept. 22, 2017.)

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