


EDWARDS AQUIFER AUTHORITY
RULEMAKING


Title: EDWARDS AQUIFER AUTHORITY RULES

Chapter 715 (Comprehensive Water Management)
Subchapter E (Critical Period Management Plan)

Rule Type: Proposed Rules (PRs)

Prepared By:  Marc Friberg, Executive Director, External & Regulatory Affairs

Through: Darcy Alan Frownfelter, General Counsel

Approved By:  Roland Ruiz, General Manager

| |
|--|
| Effective Date: _____, 2019 |
| Board approves FRs: _____, 2018 |
| Committee approves FRs: _____, 2018 |
| GM approves FRs: _____, 2018 |
| Board approves PRs: October 10, 2018 |
| Committee approves PRs: September 25, 2018 |
| GM approves PRs: September 20, 2018 |
| Notice of Intent to Finish Out Crop v1 |

§ 715.219 Finishing Out Crop Irrigation; Additional Crops

(a) Notwithstanding the existence of any critical period stage, a person authorized to withdraw groundwater from the Aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed in Table 1, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect. Except as provided in Subsection (e), a crop is considered to be already planted if seeds, sprigs, or trees for commercial orchards have been placed in the ground and not harvested prior to a determination by the Authority that a person is in jeopardy of exceeding the reduced groundwater withdrawal amount in the permit due to the withdrawal reductions prescribed in Table 1. Such a crop may be finished by continued irrigation from the date of the Authority's jeopardy determination until as indicated in the following table:

| CATEGORY | EXAMPLES | CONTINUED IRRIGATION TO FINISH OUT CROP |
|-----------------------|---|---|
| Cereal and oil crops | Grasses (barley, corn, millets, oats, rye, sorghum, wheat), peanuts, sunflower etc. | Until harvested |
| Forage Crops | Legumes (alfalfa) and grasses (coastal Bermuda, etc.) used for hay production. | One additional cutting after submittal of notice of intent to finish out a crop is submitted. |
| Forage Crops | Legumes (alfalfa) and grasses (coastal Bermuda, etc.) used for grazing. | Until forage crop goes dormant |
| Fiber and Misc. Crops | Cotton, jute, flax etc. | Until harvested |
| Tree and Fruit Crops | All fruit bearing trees | Until harvested |
| Vegetable Crops | Cabbage, cucumbers, melons lettuce, onions, peppers, squash, etc. | Until harvested |

The Authority shall make a jeopardy determination if the person is within 30 days or less of exceeding the reduced permitted groundwater withdrawal amount after applying the applicable interruption coefficients in §715.218 at the applicable stage interruption coefficient in effect the day a Notice of Intent to Finish Out a Crop form is filed with the Authority on the form prescribed by the Authority. A person may not demonstrate jeopardy if such jeopardy is due to the transfer via sale or lease of a portion of the person's groundwater withdrawal permit or permits to a third party at any time after the date of the first issued notice of commencement of a critical period stage in the current calendar year.

(b) The Authority shall make a jeopardy determination and allow a person to finish irrigating an applicable crop if the person establishes in the Notice of Intent to Finish a Crop form that the person is in jeopardy of exceedance. The Notice of Intent to Finish a Crop form shall provide spaces and instructions to calculate predicted critical period reductions, report the type of crop, the date of planting, the crop size in acres irrigated, the estimated date of the final irrigation, the year-to-date meter reading, and any other relevant information that Authority staff may require, including applicable timeframes of withdrawing the notice. Persons finishing a crop shall, in their annual groundwater use report, indicate that they actually finished out the crop, report the date of the last irrigation, provide a meter reading that corresponds, as near as possible, with the date of last irrigation, and include any other relevant information that the Authority may require.

(c) Persons exercising the right to finish out an already planted crop under Subsection (a) may not plant additional crops during the same calendar year unless:

- (1) the additional crop is dry land farmed; or
- (2) the person irrigates from a source other than the Aquifer

(d) A person's Notice of Intent to Finish a Crop will be deemed to be withdrawn by the person and of no force or effect and the person will be required to maintain compliance with the applicable permitted groundwater withdrawal amounts as adjusted by §715.218, if:

(1) that person subsequently obtains a transfer from a third-party of unused groundwater withdrawal amounts and irrigates a crop with this groundwater; or

(2) that person plants and irrigates an additional crop utilizing remaining water from the reduced permitted withdrawal amount.

(e) A person who harvests a crop prior to the date of the issuance of a notice of commencement of a stage of critical period and who has not irrigated for any purpose after such a harvest, may file a Notice of Intent to Finish a Crop form at any time during the calendar year if retroactive application of the interruption coefficients in §715.218 would cause the person to exceed the reduced permitted groundwater withdrawal amount. After review of the notice, the Authority shall make a retroactive jeopardy determination and allow the person to have finished irrigating an applicable crop as provided in subsection (b). In such a situation, the person shall, on a form prescribed by the Authority, provide a meter reading that corresponds, as near as possible, with the date of last irrigation and provide evidence that no subsequent crops were planted and irrigated.

(f) Nothing in this section shall be construed or interpreted to authorize a person to withdraw more than the authorized groundwater withdrawal amount in the person's groundwater withdrawal permit or permits as unadjusted by § 715.218.