

7.4 Change of Description of Irrigated Acres (No Increase in Acreage).

~~7.4.1 An application to change the description of acres may be approved if a right to irrigate the claimed number of acres is established pursuant to Sections 37-90-107 and 108, C.R.S., and the requested change will not result in any material injury to the vested rights of other appropriators. A change of description of irrigated acres may be approved if the change does not result in an increase over the historical average number of acres irrigated by the well. The historical average number of irrigated acres shall be based on ten or more most recent years. It is the burden of the applicant to demonstrate the historical average number of acres irrigated, but the Commission may use all available information to establish the historical average number of acres irrigated.~~

~~7.4.1.1 No credit toward the historical average number of acres shall be given for historical irrigation of a number of acres which exceeds the number of permitted acres.~~

~~7.4.1.2 No credit toward the historical average number of acres shall be given for historical irrigation of acreage that is not within the permitted description of irrigated acreage, unless the description and number of historically irrigated acres (but not exceeding the number of permitted acres) are those under which the irrigation right was established by placement to beneficial use and have been continued to be irrigated since the irrigation right was established, and no change in actual irrigated acreage is occurring.~~

~~7.4.1.3 If in any given year or years the land permitted to be irrigated by a well was placed into a federal set aside or conservation reserve program resulting in limited or no irrigation, the historical average number of acres irrigated may be computed by excluding such year(s) from the average. Annual reporting to the Commission is not required to take advantage of the provisions of this sub-rule.~~

~~7.4.1.4 Irrigation occurring during the calendar year 2018 and during any successive calendar year may be excluded in computing historical average number of acres irrigated provided at least ten years of water use information is available to compute historic use and provided a written request to exclude water use for any given calendar year is received by the Commission by May 1 of that calendar year. This written request must be on a form prescribed by the Commission. To avoid having applicants pick and choose water use years during this period to maximize the average historical number of irrigated acres, a request to exclude water use for any year once submitted cannot be withdrawn.~~

~~7.4.1.5 The annual amount of water allowed to be withdrawn for use after the change may not be more than the product of (the number of acres allowed to be irrigated by the change of description) times (the acre-feet per acre rates required for appropriations for new wells by Rule 5.5).~~

7.4.2 Applications filed for a change of description of irrigated acres shall be deemed as an application for rotational acres to be evaluated under Rule 7.5 if the permit has already been granted a change of description of acres by the Commission twice within the last four years.