



COLORADO

Division of Water Resources

Department of Natural Resources

Agricultural Water Protection Water Right

On May 18, 2016, Governor Hickenlooper signed [House Bill 16-1228](#) into law. This law allows the owner of an absolute decreed irrigation water right used for agricultural purposes to change that water right to an “Agricultural Water Protection Water Right.” The decree for such a change must include a quantification of the historical consumptive use (“HCU”) and a determination of return flow obligations resulting from the change, among other things. This law does not require that the decree for the change identify a type and place of use for a new use. After the change is decreed, the owner of the Agricultural Water Protection Water Right may lease, loan, or trade up to 50 percent of the HCU that was changed to another water user for a new use. The State Engineer must approve that new use through a substitute water supply plan (“SWSP”) pursuant to section 37-92-308(12), C.R.S. This law applies only in Water Divisions 1 and 2.

This law allows the owner of an irrigation water right to quantify the HCU, determine return flow obligations, and identify other provisions necessary to prevent injury without having to identify the place or type of use that would result from the lease, loan, or trade of the water right. When the owner of the Agricultural Water Protection Water Right becomes aware of the need or opportunity to lease, loan, or trade the water for a new use, that transition can occur more quickly, because the necessary engineering quantifications and legal determinations have been made.

An important provision in the law requires that a portion of the water right that is not part of the lease, loan, or trade remain in agricultural use. The owner of the water right must participate in a conservation program or an Agricultural Water Protection Program that is developed for the purpose of ensuring compliance with the applicable law. The law requires that the CWCB develop [Criteria and Guidelines](#) for the development of an Agricultural Water Protection Program. The law further requires that the State Engineer promulgate rules to govern the review of an SWSP pursuant to section 37-92-308(12).

To develop the initial drafts of the Criteria and Guidelines and the Rules, the CWCB and State Engineer met with parties that had an active role in crafting House Bill 16-1228 in 2016. Four public meetings were held as shown in the table below. Comments were accepted through May 5, 2017. A revised version of the Rules was distributed to the SWSP notification lists for Division 1 and Division 2 on June 6, 2017. On October 23, 2017, the State Engineer filed the [Rules](#) and the [Statement of Basis and Purpose](#) for the Rules in the Division 1 Water Court under case no. 17CW3152 and in the Division 2 Water Court under case no. 17CW3057. As of August 2018, the case has been consolidated to be heard in the Division 1 water court.

Monday, April 3, 2017 from 3 p.m. - 6 p.m.	Island Grove Regional Park, Events Center Conference Room A, 501 N 14th Ave, Greeley, CO 80631
Tuesday, April 4, 2017 from 3 p.m. - 6 p.m.	Otero Junior College Student Center Banquet Room, 1802 Colorado Ave, La Junta, CO 81050
Wednesday, April 5, 2017 from 3 p.m. - 6 p.m.	Sterling Public Library Community Room, 420 N 5th St, Sterling, CO 80751
Thursday, April 6, 2017 from 3 p.m. - 6 p.m.	Upper Arkansas Water Conservancy District Board Room, 339 E Rainbow Blvd # 101, Salida, CO 81201

Available Documents

[All Related Rulemaking Documents \(2017\)](#)

Rulemaking Presentations

[Presentation: April 2017 Public Meetings](#)