

**Rules and Regulations**  
**Northwest Kansas Groundwater Management District No. 4**  
**Division of Water Resources**  
**Kansas Department of Agriculture**  
**December 8, 2006**

**5-24-1. Definitions.** As used in these regulations for the northwest Kansas groundwater management district no. 4, the following words and phrases shall have the following meanings.

(a) "Area of consideration" means the two-mile-radius circle whose center is the location of the proposed point of diversion. The area of consideration equals 8,042 acres minus any area of the circle that is outside the state of Kansas.

(b) "Base acreage" has the meaning specified in K.A.R. 5-5-11(a).

(c) "Battery of wells" has the meaning specified in K.A.R. 5-1-1.

(d) "Board" means the board of directors constituting the governing body of the northwest Kansas groundwater management district no. 4.

(e) "District" means the northwest Kansas groundwater management district no. 4.

(f) "Tailwater" means that portion of the applied irrigation water that becomes runoff from the authorized place of use.

(g) "Theis analysis" means the Theis non-equilibrium equation analysis described in pp. 108-113 in "ground water and wells: a reference book for the water-well industry," published by Edward E. Johnson, Inc., Saint Paul, Minnesota, in 1966. The pages specified in this subsection are hereby adopted by reference.

(h) "Usable water" means water containing not more than 10,000 milligrams per liter of total dissolved solids.

(i) "Waste of water" has the meaning specified in K.A.R. 5-1-1.

(j) "Well" means any excavation that is drilled, cored, bored, washed, driven, dug, or otherwise constructed if the intended use of the excavation is for the acquisition, diversion, or artificial recharge of groundwater. (Authorized by K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; effective May 1, 1983; amended May 1, 1985; amended Jan. 30, 2004.)

**5-24-2. Allowable withdrawals.** (a) Except as set forth in subsection (b) below, each application for an approval of application and each application for a change in the point of diversion shall be subject to the following requirements:

(1) The sum of the annual quantities of water of the proposed appropriation, the vested rights, prior appropriation rights, and earlier priority applications with a point of diversion authorized or proposed within the area of consideration that withdraw water from the same source of supply as the proposed point of diversion, as a hydraulically connected source of supply, shall not exceed the calculated quantity of annual recharge received by the aquifer underlying the area of consideration. The quantity authorized on all prior permits, certificates, and vested rights, and the quantity requested on prior applications shall be used to calculate the sum of prior appropriations.

(2) All limitation clauses listed on permits and certificates shall be considered to be in force.

(3) In the case of an application for change in the point of diversion, all applications with a priority earlier than the priority established by the filing of the application for change shall be included in the analysis.

(4) The allowable annual appropriation shall be calculated using the formula  $Q = AR/12$ , in which the following values are used:

(A) Q is the allowable annual appropriation in acre-feet per year.

(B) A is the area of consideration.

(C) R is the average annual recharge in inches per year.

(5) The value of .5 inch per year shall be used for recharge, including natural recharge and return flow from irrigation.

(6) If a portion of the area of consideration is outside the district boundary, the evaluation shall be conducted as though the entire area of consideration were within the district boundary. If the perimeter of the area of consideration intersects a group of wells authorized under prior applications, permits, certificates, or vested rights, a reasonable quantity of water shall be assigned to each well based upon the best available information.

(b) The following types of applications shall not be subject to this regulation:

(1) A nondomestic application for an approval of application if the proposed point of diversion meets the following criteria:

(A) Is to be located in an alluvial aquifer not closed to new appropriations, except for domestic use, temporary permits, and term permits for five or fewer years;

(B) meets the well spacing requirements of K.A.R. 5-2-3; and

(C) meets the safe yield requirements of K.A.R. 5-3-9, K.A.R. 5-3-10, and K.A.R. 5-3-11;

(2) a nondomestic application to appropriate water from one or more of the following sources of supply:

(A) Niobrara;

(B) Carlile;

(C) Greenhorn;

(D) Dakota;

(E) Kiowa; or

(F) the Cheyenne formations if both of the following conditions are met:

(i) The well spacing requirements of K.A.R. 5-24-3 are met; and

(ii) the proposed point of diversion is located in an area where there is a natural hydraulic connection between all of the formations from which the applicant proposes to divert water;

(3) an application for a permit to appropriate water for domestic use;

(4) an application for a term permit for five years or less;

(5) an application for a temporary permit;

(6) an application for change in point of diversion if either of the following conditions is met:

(A) The authorized well has been drilled, cased, and test-pumped; or

(B) the authorized diversion works have been completed and a notice of completion was timely filed with the chief engineer under the current water right or approval of application

(7) an application for an approval of application filed on an existing well currently authorized by a vested right, appropriation right, or approval of application that requests a

quantity of water equal to or less than the currently available quantity of water that will be conjunctively reduced from a well authorized by either a vested right or certified appropriation right meeting either of the criteria specified in paragraph (c)(1);

(8) an application for an approval of application that meets the criteria of K.A.R. 5-24-10; and

(9) an application for an additional rate of diversion only that meets the requirements of K.A.R. 5-4-5.

(c)(1) To be exempt from this regulation, each application for an approval of application filed on an existing well currently authorized by a vested right, appropriation right, or approval of application that requests a quantity of water equal to or less than the currently available quantity of water that will be conjunctively reduced from a well authorized by either a vested right or certified appropriation right shall meet either of the following criteria:

(A) Be located within 2,640 feet of the existing well that will have its authorized quantity reduced; or

(B) be located within a distance from the currently authorized well for which a Theis analysis shows a .5 foot or greater drawdown, using the following assumptions:

(i) The certified rate of diversion of the currently authorized well;

(ii) the certified annual quantity of water for the currently authorized well;

(iii) the pumping time equal to the time it takes to pump the certified annual quantity at the certified rate of diversion;

(iv) the drawdown computed at the time equal to the pumping time; and

(v) the transmissivity and storage coefficient derived either from a time drawdown aquifer pump test of the currently authorized well or from use of the well log from the currently authorized well or a well log from a test hole or well located within 300 feet of the currently authorized well, using the procedure described in pages 26-27 of the United States geological survey's water-resources investigations report 85-4198, published in 1985. The pages specified in this paragraph are hereby adopted by reference.

(2)(A) For water rights authorized for irrigation use, the currently available quantity of water shall be calculated as follows:

(i) Determine the maximum number of acres actually irrigated during the perfection period. For vested rights, use the maximum number of acres irrigated in any one calendar year before June 29, 1945; and

(ii) use the 80 percent chance rainfall net irrigation requirements (NIR) for corn as set forth in K.A.R. 5-5-12 to determine the NIR for each acre, and then divide that value by .85 to adjust for efficiency.

(B) For non-irrigation water rights, the currently available quantity of water shall not exceed the actual consumptive use during the perfection period.

(3) Each well that has a reduced or new water right pursuant to this subsection shall be equipped with a water flowmeter meeting the requirements of article one of the chief engineer's regulations.

(4) The maximum distance that a well shall be relocated under paragraph (c)(1)(B) shall be the distance computed as described in paragraph (c)(1)(B), or 3,960 feet, whichever is less.

(5) The historic consumptive use of a well meeting the requirements of paragraph (b)(7) that is accounted for in the Republican river compact, K.S.A. 82a-518 and amendments

thereto, accounting as a stream depletion reaching the Republican river downstream of Trenton dam shall not be transferred to a well that would cause a depletion reaching the Republican river upstream of Trenton dam.

(6) The total net acreage authorized by the following shall not exceed the current net total authorized acreage for both wells:

- (i) The approval of application;
- (ii) the water right being reduced; and
- (iii) the water right currently authorizing the well for which the new water right is sought. (Authorized by K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; effective May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended Aug. 19, 1991; amended Jan. 30, 2004.)

**5-24-3. Well spacing.** (a) Except as specified in subsection (b), the spacing between each proposed well and all other wells authorized to withdraw water from the same source of water supply shall be as follows:

(1) In the Ogallala aquifer and in alluvial aquifers not closed to new appropriations, the required minimum spacing for nondomestic, nontemporary wells shall be as follows:

- (A) 0 to 175 acre-feet requested: a minimum spacing of 1,400 feet;
- (B) 176 to 350 acre-feet requested: a minimum spacing of 2,000 feet;
- (C) 351 to 575 acre-feet requested: a minimum spacing of 2,400 feet; and
- (D) more than 575 acre-feet requested: a minimum spacing of 2,800 feet.

(2) If the quantity of water authorized or applied for includes a fraction of an acre-foot, the quantity of water shall be rounded off to the nearest acre-foot of water for the purpose of applying this regulation.

(3) Each nondomestic well shall be spaced a minimum of 800 feet from each domestic well constructed in the same aquifer unless the chief engineer determines that one of the following criteria is met:

- (A)(i) The domestic well is owned by the applicant;
- (ii) the applicant signs a written request to waive the spacing requirement to the domestic well;
- (iii) the applicant submits information documenting the location and depth of the domestic well, and any other information necessary to determine whether the domestic well is likely to be impaired; and
- (iv) a Theis analysis or other hydraulic analysis done by the chief engineer shows that the domestic well is not likely to be impaired by the proposed well; or
- (B)(i) The owner of the domestic well signs a written request to waive the spacing requirement to the domestic well;
- (ii) the applicant submits information documenting the location and depth of the domestic well, and any other information necessary to determine whether the domestic well is likely to be impaired; and
- (iii) a Theis analysis or other hydraulic analysis done by the chief engineer shows that the domestic well is not likely to be impaired by the proposed well.

(4) Each nondomestic application for additional water from an existing well already authorized by one or more water rights shall meet the minimum spacing requirements in

paragraph (a)(1) for the cumulative total of all existing water rights, earlier appropriations, and the proposed appropriation for that well.

(5) For a battery of wells, the well spacing shall meet the minimum spacing in paragraph (a)(1) based on the total amount of water applied for by the battery of wells. The minimum spacing distance shall be measured from the geocenter of the proposed battery of wells.

(6) Nondomestic wells withdrawing water from a cretaceous aquifer shall be spaced a minimum of four miles from all other wells withdrawing water from a hydraulically connected cretaceous aquifer. The spacing between a nondomestic well withdrawing water from a cretaceous aquifer and a domestic well withdrawing water from the same aquifer shall be a minimum of 2,640 feet unless one of the following criteria is met:

(A)(i) The domestic well is owned by the applicant;

(ii) the applicant signs a written request to waive the spacing requirement to the domestic well;

(iii) the applicant submits information documenting the location and depth of the domestic well, and any other information necessary to determine whether the domestic well is likely to be impaired; and

(iv) a Theis analysis or other hydraulic analysis by the chief engineer shows that the domestic well is not likely to be impaired by the proposed well; or

(B)(i) The owner of the domestic well signs a written request to reduce the spacing requirement to the domestic well;

(ii) the applicant submits information documenting the location and depth of the domestic well, and any other information necessary to determine whether the domestic well is likely to be impaired; and

(iii) a Theis analysis or other hydraulic analysis done by the chief engineer shows that the domestic well is not likely to be impaired by the proposed well.

(b) The well spacing requirements of subsection (a) shall not apply to the following:

(1) Spacing to a standby well;

(2) spacing to another well if either of the following conditions is met:

(A)(i) The other well is owned by the applicant;

(ii) the owner of the other well signs a written request to reduce the spacing requirement to the other well;

(iii) the applicant submits information documenting the location and depth of the other well, and any other information necessary to determine whether the other well is likely to be impaired by the proposed well; and

(iv) a Theis analysis or other hydraulic analysis done by the chief engineer shows that the proposed well is not likely to impair the other well; or

(B)(i) The owner of the other well files a written request to waive the spacing requirement to the proposed well;

(ii) the applicant submits information documenting the location and depth of the other well, and any other information necessary to determine whether the other well is likely to be impaired by the proposed well; and

(iii) a Theis analysis or other hydraulic analysis done by the chief engineer shows that the proposed well is not likely to impair the other well;

(3) a replacement well that meets one of the following criteria:

- (A) The well is being replaced within 300 feet of the currently authorized location; or
- (B) both of the following conditions are met:
  - (i) The proposed replacement well location increases the spacing to all other wells for which the spacing requirement was not met on the date the application for a change in point of diversion was filed; and
  - (ii) the proposed replacement well location continues to meet the requirements for spacing to all wells for which the well spacing requirement was met at the time the application for change in point of diversion was filed; and
- (4) an additional well if the original well and the additional well are owned by the same owner or owners. (Authorized by K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; effective May 1, 1983; amended Jan. 30, 2004.)

**5-24-4. Tailwater control and waste.** No person shall commit or allow a waste of water as defined in K.A.R. 5-1-1. Runoff from precipitation shall not be considered a waste of water. (Authorized by K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; effective May 1, 1983; amended Jan. 30, 2004.)

**5-24-5. Allowable appropriation – reasonable use.** (a) The maximum reasonable annual quantity of water for irrigation use shall not exceed the standards adopted in K.A.R. 5-3-19, K.A.R. 5-3-20, K.A.R. 5-3-21, K.A.R. 5-3-23, and K.A.R. 5-3-24.

(b) The annual quantity of water deemed reasonable on an application for municipal use shall be determined using the following criteria:

(1) The annual quantity of water needed for residential use shall be based on a population projection for the ensuing 20 years. The projected population shall be determined by extending present population for 20 years at one and one-half percent per year increase.

(2) The total quantity of water reasonable for the residential population shall then be determined by the following:

(A) Multiplying the projected population by the current per capita use; and

(B) adding a reasonable quantity of water for the present and projected industrial use for the ensuing 20-year period.

(3) Municipalities may purchase, condemn, or otherwise acquire existing water rights in excess of the quantities set forth in paragraphs (b)(1) and (2) and apply to the chief engineer to change a reasonable quantity of the acquired water rights for municipal use, which shall not exceed 200 percent of the quantity considered reasonable pursuant to paragraphs (b)(1) and (2).

(c) The quantities of water deemed to be reasonable for livestock and poultry shall be determined pursuant to K.A.R. 5-3-22.

(d) All applications for any other type of beneficial use shall be reviewed to determine if the annual quantity of water and rate of diversion requested are reasonable for the intended use based on the best information available. (Authorized by K.S.A. 82a-1028, as amended by L. 2002, Ch. 137, § 5, and K.S.A. 82a-706a; implementing K.S.A. 82a-1028, as amended by L. 2002, Ch. 137, § 5; effective May 1, 1983; amended Aug. 19, 1991; amended Jan. 10, 2003.)

**5-24-6. Changes in points of diversion.** (a) Each replacement well shall meet all of the criteria in either of the following paragraphs:

(1)(A) Be located within 2,640 feet of the currently approved well location; and

(B) meet the well spacing criteria of K.A.R. 5-24-3; or

(2)(A) Be located within a distance from the currently authorized well for which a Theis analysis shows a .5 foot or greater drawdown, using the following assumptions:

(i) The certified rate of diversion of the currently authorized well;

(ii) the certified annual quantity of water for the currently authorized well;

(iii) the pumping time equal to the time it takes to pump the certified annual quantity at the certified rate of diversion;

(iv) the drawdown computed at the time equal to the pumping time;

(v) the transmissivity and storage coefficient derived either from a time drawdown aquifer pump test of the currently authorized well or from use of the well log from the currently authorized well or a well log from a test hole or well located within 300 feet of the currently authorized well, using the procedure specified in K.A.R. 5-24-2(c)(1)(B)(v); and

(B) meet the well spacing criteria of K.A.R. 5-24-3.

(b) The maximum distance that a well may be relocated under paragraph (a)(2) shall be the distance computed as specified in paragraph (a)(2), or 3,960 feet, whichever is less. If the historic consumptive use of the well being replaced is accounted for in the Republican river compact, K.S.A. 82a-518 and amendments thereto, accounting as a stream depletion reaching the Republican river downstream of Trenton dam, that consumptive use shall not be transferred to a well that would cause a depletion reaching the Republican river upstream of Trenton dam.

(c) No change in a point of diversion application that proposes to change the authorized point of diversion from one well to a battery of wells shall be approved unless at least one of the following conditions has been met:

(1) Water is available for appropriation pursuant to K.A.R. 5-24-2 at the geocenter of the proposed battery of wells or would be available if the current water right were dismissed.

(2) The proposed battery of wells meets the requirements of K.A.R. 5-2-3.

(Authorized by K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; effective May 1, 1983; amended May 1, 1987; amended Jan. 30, 2004.)

**5-24-7. Well construction criteria.** (a) Each nondomestic well that is not subject to regulation under the Kansas chemigation safety law, K.S.A. 2-3301 et seq., and amendments thereto, and that is completed after May 1, 1983 shall include the installation of a check valve that meets or exceeds specifications adopted by the chief engineer which were in effect at the time the well was completed.

(b) All wells, including domestic wells, to be completed in a cretaceous aquifer shall be constructed in a manner that prevents the cretaceous aquifer from mixing with all quaternary, tertiary, and any other cretaceous water-bearing strata that have no natural hydraulic connection between the formation or formations in which the well will be screened. (Authorized by and implementing K.S.A. 82a-1028; effective May 1, 1983; amended Jan. 10, 2003.)

**5-24-8. Resource development plans.** (a) A resource development plan may be required by the district to be submitted for any of the following:

- (1) A new application to appropriate water for irrigation use;
  - (2) a nonemergency application to change the place of use or the use made of water from irrigation to another type of use that involves an actual physical change in operation; or
  - (3) a new application to appropriate water for nonirrigation purposes if one of the following criteria is met:
    - (A) The quantity of water requested is likely to be unreasonable.
    - (B) The proposed beneficial use is likely to be inefficient.
    - (C) The proposed operation is likely to result in a waste of water.
    - (D) The owner or operator has a recent, documented history of noncompliance with the provisions of the Kansas water appropriation act or regulations adopted pursuant to the act.
- (b) Each resource development plan shall include a description of the proposed operation, including the diversion works, the distribution system, and all other matters necessary to determine whether the proposed annual quantity of water is likely to be reasonable and not wasteful.
- (c)(1) The applicant shall be notified by the district whenever an applicant is required to submit a resource development plan. This notification shall include the deadline for submitting the plan. The district shall then review the plan and submit it to the chief engineer with one of the following recommendations:
- (A) The application should be approved because the proposed plan meets the regulatory requirements, and those portions of the plan consistent with the conservation plan guidelines adopted by the Kansas water office should be required as a conservation plan as a condition of the approval of application.
  - (B) The application should be approved if certain changes are made to the plan, and the amended plan should be required as a condition of the approval of application insofar as it is consistent with the water conservation planning guidelines adopted by the Kansas water office.
  - (C) The plan does not meet the regulatory requirements, and the application should not be approved.
- (2) Each water conservation plan required by the chief engineer shall be made a condition of the approval of application. The required water conservation plan shall be fully implemented before diversion of water occurs pursuant to that approval of application. After the plan is implemented, the owner shall maintain the plan in a satisfactory manner.
- (d) In addition to meeting the requirements specified in subsection (b), for irrigation use, the resource development plan shall meet the following requirements:
- (1) Include irrigation system design, tailwater control methods, well yield, and cropping patterns; and
  - (2) comply with design criteria meeting the following requirements:
    - (A) Are set forth in the national engineering handbook (NEH), part 652, irrigation guide, dated November 13, 1997, as amended through the Kansas state supplement dated May 8, 2003, which is hereby adopted by reference; and
    - (B) are consistent with the “irrigation water conservation program for the state of Kansas,” published by the Kansas water office in November 1993 and hereby adopted by reference.
- (e) For municipal use, the plan shall comply with the “Kansas 1990 municipal water conservation plan guidelines,” second edition, which is published by the Kansas water office and hereby adopted by reference.



(f) In addition to meeting the requirements specified in subsection (b), for all other types of beneficial use, the resource development plan shall include a description of the proposed use of water in sufficient detail to determine if the proposed use is reasonable and not wasteful. (Authorized by K.S.A. 2002 Supp. 82a-1028 and K.S.A. 82a-706a; implementing K.S.A. 2002 Supp. 82a-1028; effective Jan. 10, 2003; amended Jan. 30, 2004.)

**5-24-9. Water flowmeters.** (a) Each of the following types of wells shall be equipped with a water flowmeter meeting the water flowmeter and installation specifications in K.A.R. 5-1-4 through K.A.R. 5-1-12 at the time the well is permitted:

- (1) Any nondomestic, nontemporary well permitted or drilled after May 1, 1980;
- (2) any nondomestic, nontemporary well actually drilled after May 1, 1980 pursuant to an approval of an application for a change in point of diversion; and
- (3) any well reduced in annual quantity of water authorized in order to allow approval of another application pursuant to K.A.R. 5-24-2.

(b) In addition to meeting the requirements of this regulation, each owner shall meet the requirements specified in K.A.R. 5-3-5e. (Authorized by K.S.A. 82a-1028, as amended by L. 2002, Ch. 137, § 5, and K.S.A. 82a-706a; implementing K.S.A. 82a-1028, as amended by L. 2002, Ch. 137, § 5, and K.S.A. 2001 Supp. 82a-1903, as amended by L. 2002, Ch. 137, § 7; effective Jan. 10, 2003.)

**K.A.R. 5-24-10. Exemptions for up to 15 acre-feet of groundwater.** (a) In any area of the district that is subject to safe yield criteria and is not closed by specific regulation or intensive groundwater use control area order by the chief engineer to new nondomestic, nontemporary permits and term permits for five or fewer years, each application to appropriate groundwater shall be exempt from meeting the safe yield criteria if all the following conditions are met:

- (1) The maximum annual quantity of water proposed in the application is 15 acre-feet or less.
- (2) The well spacing criteria of K.A.R. 5-24-3 have been met.
- (3) An existing water right from the same source of water supply that has a point of diversion located within two miles of the proposed point of diversion has its authorized annual quantity reduced as described in subsection (b).
- (4) All issues relating to the possible abandonment of the offsetting water right are resolved by the chief engineer before determining the annual quantity of offset water that is available from the existing water right.
- (5) The approval of the application does not authorize an additional quantity of water out of an existing authorized well with a nondomestic permit or water right that would result in a total combined annual quantity of water authorized from that well in excess of 15 acre-feet.
- (6) The approval of the application does not authorize an additional quantity of water to be used on a currently authorized nondomestic place of use.

(b) If the water right to be used as the offset for the new appropriation is a water right authorized for irrigation use, the authorized quantity of water needed to offset the new appropriation of not more than 15 acre-feet of water shall be calculated as follows:

- (1) Step one.

(A) Multiply the net irrigation requirement for the 50 percent chance rainfall for the county of origin, as specified in K.A.R. 5-5-12, times the maximum number of acres legally irrigated in any one calendar year during the perfection period. For vested rights, the acreage used shall be the maximum acreage legally irrigated in any one calendar year before June 28, 1945.

(B) The calculation made in paragraph (b)(1)(A) shall result in the maximum annual quantity of water that could be changed to another type of beneficial use if the entire water right were changed pursuant to K.A.R. 5-5-9(a)(1).

(2) Step two.

(A) Divide the annual quantity of water desired to be changed to the new beneficial use by the maximum annual quantity of water that could be changed if the entire water right were changed to the new use.

(B) The calculation made in paragraph (b)(2)(A) shall result in the percentage of the entire reduced water right that will be changed to the new use. The remaining percentage of the current water right may be retained by the irrigation water right owner.

(3) Step three.

(A) Multiply the remaining percentage calculated in paragraph (b)(2)(B) times the total currently authorized quantity. The resulting product shall be the annual quantity of water that can be retained by the irrigation water right owner.

(B) The portion of the authorized annual quantity of water not retained by the irrigator as described in paragraph (b)(3)(A) shall be permanently reduced from the authorized annual quantity of the offsetting water right and used to offset the new appropriation.

(c) If the water right to be used as the offset for the new appropriation is an existing water right authorized for nonirrigation use, the total net consumptive use of the offsetting water right after the change and the new appropriation shall not exceed the net consumptive use of the offsetting water right before the change.

(d) The place of use authorized by the offsetting water right shall be reduced in proportion to the reduction in the maximum annual quantity of water as determined in paragraph (b)(1)(B). If the owner of the irrigation water right desires to retain more authorized acres, the directions specified in K.A.R. 5-5-11(b)(2)(B)(ii) shall be followed to determine whether the irrigator may retain more acres in the authorized place of use.

(e) After the use of not more than 15 acre-feet has been approved pursuant to this regulation, no application for change for that water right shall be approved for any quantity of water that would authorize the water to be diverted from a currently authorized point of diversion or to be used on a currently authorized place of use. (Authorized by K.S.A. 82a-706a and K.S.A. 2005 Supp. 82a-1028; implementing K.S.A. 2005 Supp. 82a-1028; effective Jan. 10, 2003; amended Dec. 8, 2006.)

**5-24-11. Investigation and enforcement.** The procedure set forth in this regulation shall be followed whenever enforcement action is taken by the district after it becomes aware that a person could be violating any of the regulations adopted by the chief engineer that relate to conservation and management of groundwater within the district.

(a) If a violation is discovered by the district's staff, the enforcement procedure shall begin with the step specified in subsection (c). In all other cases, a complaint may be filed with the district either verbally or in writing. The complaint shall describe and specify the following:

- (1) The nature of the alleged violation;
- (2) the location of the alleged violation;
- (3) the name of the complainant;
- (4) the mailing address of the complainant; and
- (5) any other information necessary for the staff to understand the alleged violation

and assist the staff in investigating the complaint.

(b) Before the staff makes any field investigation of the complaint, the staff shall make at least one attempt to contact an owner, operator, or other responsible representative of the water right or approval of application to notify the individual that a field investigation will be made.

(c) The district's staff shall make an investigation under either the following circumstances:

(1) A complaint has been filed with the district, and the requirement specified in subsection (b) has been met.

(2) The district's staff discovers a violation of any regulation adopted by the chief engineer relating to conservation and management of groundwater within the district.

(d) A written report of the investigation shall be prepared by the staff. This report shall include any documents relied on or prepared by the staff in investigating the complaint or internally discovered violation. The report shall become a part of the official district record concerning the investigation. If a water right or an approval of application is involved, the report shall be made a part of that file.

(e) If the investigation shows that no violation has occurred or that enforcement action is not warranted, a copy of the report shall be sent to the complainant, if the investigation was prompted by a complaint, and the water right owner. A copy shall be retained in the district office. No further enforcement action shall be taken by the district at that time.

(f)(1) If the investigation determines or confirms that a violation has occurred, the report shall contain an order issued by the district staff, which shall be sent by restricted mail to the water right owner as shown in the district records and to any other person who is known by the district to have been committing the violation. The order shall specify and include the following:

(A) A description of the violation, including the specific regulations that are being violated;

(B) the actions necessary to correct the violation;

(C) a reasonable time frame to correct the violation;

(D) a statement that extensions of time to correct any violation may be granted by the staff if good cause is shown by the water right owner or other responsible party;

(E) a statement that the order is effective immediately;

(F) a statement that if the violation is corrected within the time specified by the order, the violator is required to notify the district, and an inspection will be conducted by the staff to determine if the violation has ceased;

(G) a statement that if any party desires to appeal an order issued by the staff, an appeal to the board is required to be requested within 15 days of the issuance of the order by a water right owner or violator;

(H) a statement that the request for an appeal may also request a stay of the order. If the requestor demonstrates good cause for a stay, a stay of the order may be granted by the staff or the board; and

(I) a statement that any subsequent violations of the same nature will be handled as a continuation of the current violation, not a new violation.

(2) A copy of the report shall be sent to the complainant.

(g) If the violation is corrected within the time frame specified by the order, the violator shall notify the district, and an inspection shall be conducted by the staff to determine if the violation has ceased. If the staff investigation determines that the violation has been corrected within the time frame specified by the order and in accordance with the district order, the enforcement activity by the district shall cease.

(h) If the violation has not been corrected within the time frame specified in the order and in the manner specified in the order, one or more of the following actions may be taken by the board:

(1) Seeking an injunction to stop the violation;

(2) requesting enforcement assistance from the chief engineer; or

(3) requesting enforcement assistance from the attorney general. (Authorized by K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; effective Jan. 30, 2004.)