

# Kansas Register

Ron Thornburgh, Secretary of State

Vol. 19, No. 36    September 7, 2000    Pages 1463-1526

In this issue . . .	Page
<b>Kansas, Inc.</b>	
Notice of meeting .....	1464
<b>Pooled Money Investment Board</b>	
Notice of investment rates .....	1464
<b>Department of Administration—Division of Architectural Services</b>	
Notice of commencement of negotiations for architectural services .....	1464
Notice of commencement of negotiations for architectural and engineering services .....	1465
<b>Kansas Department of Health and Environment</b>	
Requests for comments on proposed air quality permits .....	1465, 1466, 1467, 1471
Notice of hearing on proposed water pollution control permit .....	1468
Request for comments on proposed solid waste processing facility permit .....	1469
<b>Kansas Sentencing Commission</b>	
Notice of meeting .....	1466
<b>Criminal Justice Coordinating Council</b>	
Notice of meeting .....	1466
<b>Kansas African-American Advisory Commission</b>	
Notice of meeting .....	1466
<b>Department of Administration—Division of Purchases</b>	
Notice to bidders for state purchases .....	1468
<b>Temporary Administrative Regulations</b>	
Animal Health Department .....	1469
<b>Legislative interim committee schedule</b> .....	1470
<b>Notice of Bond Redemption</b>	
City of Johnson .....	1471
<b>Secretary of State</b>	
Usury rate for September .....	1472
Executive appointments .....	1472
Code mortgage rate for September .....	1473
<b>Notice of Bond Sale</b>	
City of Hays .....	1473
City of St. Marys .....	1474
<b>Permanent Administrative Regulations</b>	
Department of Wildlife and Parks .....	1474
Department of Agriculture—Division of Water Resources .....	1476
<b>Index to administrative regulations</b> .....	1520

## State of Kansas

**Department of Administration  
Division of Architectural Services**

**Notice of Commencement of  
Negotiations for Architectural Services**

Notice is hereby given of the commencement of negotiations for "on-call" architectural services for the Kansas State Fair, Hutchinson. Services will include work on small projects for a one-year period, renewable for two additional years.

For information regarding the scope of services, contact Bill Ogg, General Manager, Kansas State Fair, (316) 669-3600.

If interested, an original and six copies (seven total) of the SF 255 form (plus relevant attachments of information regarding similar projects) should be submitted. These submittals should be concise, relevant to the project and follow the State Building Advisory Commission guidelines for submittal. Copies of the guidelines have previously been distributed to firms; if copies of the guidelines are required, contact Gary Grimes, Division of Architectural Services, 1020 S. Kansas Ave., Topeka, 66612-1311, (785) 296-8899. Submittals not complying with the guidelines will be returned without consideration.

Expressions of interest and the SF 255 submittals should be received by Gary Grimes before 5 p.m. September 22.

Thaine Hoffman, AIA  
Director, Division of  
Architectural Services

Doc. No. 025650

## State of Kansas

**Kansas, Inc.**

**Notice of Meeting**

The Kansas Inc. Board of Directors will meet from 10 a.m. to noon Tuesday, September 12, in Suite 100, 632 S.W. Van Buren, Topeka. The meeting is open to the public. For further information, call (785) 296-1460.

Charles R. Ranson  
President

Doc. No. 025653

## State of Kansas

**Pooled Money Investment Board**

**Notice of Investment Rates**

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 1999 Supp. 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

**Effective 9-4-00 through 9-10-00**

Term	Rate
1-89 days	6.54%
3 months	6.33%
6 months	6.36%
1 year	6.32%
18 months	6.22%
2 years	6.12%

Derl S. Treff  
Director of Investments

Doc. No. 025631

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## State of Kansas

**Department of Health  
and Environment**
**Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit and amendments to previously-issued construction permits. IBP, Inc. has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance. Notice is also given that certain requirements were found to no longer be appropriate in the construction permit dated June 25, 1998. These requirements are being modified by an applicability determination.

IBP, Inc. owns and operates a beef packing plant located at 2101 W. 6th Ave., Emporia, Lyon County.

A copy of the proposed permit, permit application, all supporting documentation, all information relied upon during the permit application review process and a copy of the applicability determination are available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Northeast District Office, 800 W. 24th, Lawrence. To obtain or review either document, contact Michael Stewart, (785) 296-1994, at the KDHE central office, or Pat Simpson, (785) 842-4600, at the KDHE Northeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the documents to Michael Stewart, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating final document decisions, written comments must be received by the close of business October 9.

A person may request a public hearing be held on the proposed documents. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business October 9 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025637

## State of Kansas

**Department of Administration  
Division of Architectural Services**
**Notice of Commencement of  
Negotiations for Architectural  
and Engineering Services**

Notice is hereby given of the commencement of negotiations for "on-call" architectural and engineering services. The Department of Administration, Division of Facilities Management, is seeking the following services for smaller projects for a one-year period, renewable for two additional years:

- One "on-call" architectural firm;
- Two "on-call" mechanical/electrical engineering firms; and
- One "on-call" civil engineering firm.

Firms may indicate their interest in any or all of these items. If interested in more than one item, a separate submittal should be sent for each.

For information regarding the scope of services, contact Gary Hibbs, Design Supervisor, Division of Facilities Management, (785) 296-1318.

If interested, an original and six copies (seven total) of the SF 255 form (plus relevant attachments of information regarding similar projects) should be submitted. These submittals should be concise, relevant to the project and follow the State Building Advisory Commission guidelines for submittal. Copies of the guidelines have previously been distributed to firms; if copies of the guidelines are required, contact Gary Grimes, Division of Architectural Services, 1020 S. Kansas Ave., Topeka, 66612-1311, (785) 296-8899. Submittals not complying with the guidelines will be returned without consideration.

Expressions of interest and the SF 255 submittals should be received by Gary Grimes before 5 p.m. September 22.

Thaine Hoffman, AIA  
Director, Division of  
Architectural Services

Doc. No. 025640

## State of Kansas

**Kansas Sentencing Commission****Notice of Meeting**

The Kansas Sentencing Commission will meet from 1:30 to 3:30 p.m. Thursday, September 21, in the Senate Room of the Jayhawk Tower, 700 S.W. Jackson, Topeka. For further information, call (785) 296-0923.

Barbara Tombs  
Executive Director

Doc. No. 025646

## State of Kansas

**Department of Health  
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Lafarge Corporation has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to add a truck load-out operation for loading cement kiln dust. Emissions of particulate matter (PM) and particulate matter equal to or less than 10 microns in diameter (PM<sub>10</sub>) were evaluated during the permit review process.

Lafarge Corporation, Fredonia, owns and operates the stationary source located at South Cement Road, Fredonia, at which the Lafarge Corporation intends to install a new truck loading area to allow loading of cement kiln dust into trucks for sale at the Fredonia plant.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office, or Lynelle Stranghoner, (316) 431-2390, at the KDHE Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business October 9.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business October 9 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025638

## State of Kansas

**Criminal Justice Coordinating Council****Notice of Meeting**

The Kansas Criminal Justice Coordinating Council will meet from 9 to 11 a.m. Tuesday, September 12, in the third floor conference room of Memorial Hall, 120 S.W. 10th Ave., Topeka. For further information, call (785) 296-0923.

Barbara Tombs  
Executive Director

Doc. No. 025645

## State of Kansas

**African-American Advisory Commission****Notice of Meeting**

The Kansas African-American Advisory Commission, an entity within the Kansas Department of Human Resources, will conduct a general committee meeting at 1 p.m. Friday, September 15, in the second floor conference room of the Kansas Department of Human Resources, 1430 S.W. Topeka Blvd., Topeka. The public is invited to attend. For more information, contact Traci Ward at (785) 296-4874.

Richard E. Beyer  
Secretary of Human Resources

Doc. No. 025651

## State of Kansas

**Department of Health  
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding two proposed air quality operating permits. Colorado Interstate Gas Company and Coastal Field Services Company, subsidiaries of Coastal Corporation, have applied for Class I operating permits in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Coastal Field Services Company and Colorado Interstate Gas Company, subsidiaries of Coastal Corporation, Colorado Springs, Colorado, own and operate a natural gas compressor station located at Section 29-Township 24S-Range 36W, Kearny County, Kansas. Each subsidiary operates a portion of the facility. A separate Class I permit is proposed to be issued for each part.

Copies of the proposed permits, permit applications, all supporting documentation and all information relied upon during the permit application review process are available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Southwest District Office, 302 W. McArtor Road, Dodge City. To obtain or review the proposed permits and sup-

porting documentation, contact Michael Stewart, (785) 296-1994, at the KDHE central office, or Wayne Neese, (316) 225-0596, at the KDHE Southwest District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permits to Michael Stewart, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business October 9.

A person may request a public hearing be held on the proposed permits. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business October 9 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permits. If the EPA has not objected in writing to the issuance of the permits within the 45-day review period, any person may petition the administrator of the EPA to review the permits. The 60-day public petition period will directly follow the EPA 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permits that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025639

## State of Kansas

### Department of Health and Environment

#### Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding issuance of authorizations to operate under the general Class I air quality operating permit for natural gas compressor stations. Authorizations to operate under the general Class I operating permit have been issued in accordance with the provisions of K.A.R. 28-19-400 *et seq.*

A copy of each permit application, authorization and all supporting documentation is available for public review

during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka. Information also is available at the KDHE district office indicated for each facility. To obtain or review the permit, an authorization and supporting documentation, contact Connie Carreno at the KDHE central office, (785) 296-6422, or the indicated district representative. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding an authorization to Connie Carreno, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620.

A list of all major sources within the state authorized to operate under the terms of the general Class I operating permit will be maintained at the Topeka KDHE offices.

#### Authorizations issued during the week of December 6, 1999:

<b>Company:</b>	Anadarko Gathering Co.
<b>Compressor Station:</b>	HUGS Booster "C" Station
<b>Source ID No.:</b>	1890138
<b>Location:</b>	S23, T33S, R39W, Stevens County
<b>KDHE District Rep.:</b>	Wayne Neese, (316) 225-0596
<b>Rep. Location:</b>	Southwest District Office, Dodge City
<b>Company:</b>	Anadarko Gathering Co.
<b>Compressor Station:</b>	HUGS Booster "D" Station
<b>Source ID No.:</b>	1890044
<b>Location:</b>	S9, T33S, R38W, Stevens County
<b>KDHE District Rep.:</b>	Wayne Neese, (316) 225-0596
<b>Rep. Location:</b>	Southwest District Office, Dodge City
<b>Company:</b>	Anadarko Gathering Co.
<b>Compressor Station:</b>	HUGS Booster "E" Station
<b>Source ID No.:</b>	1890137
<b>Location:</b>	S4, T33S, R38W, Stevens County
<b>KDHE District Rep.:</b>	Wayne Neese, (316) 225-0596
<b>Rep. Location:</b>	Southwest District Office, Dodge City

#### Authorizations issued during the week of April 17, 2000:

**Kinder Morgan, Inc.**  
Buxton Gas Plant  
0530002  
S31, T17S, R9W, Ellsworth County  
Joan Ratzlaff, (785) 827-9639  
North Central District Office, Salina

#### Authorizations issued during the week of May 29, 2000:

**Pioneer Natural Resources**  
Satanta Gas Plant  
0670049  
S8, T30S, R35W, Grant County  
Wayne Neese, (316) 225-0596  
Southwest District Office, Dodge City

#### Authorizations issued during the week of June 19, 2000:

**Amoco Production Company**  
Ulysses Dehydration Facility  
0670099  
S5, T29S, R38W, Grant County  
Wayne Neese, (316) 225-0596  
Southwest District Office, Dodge City

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025641

State of Kansas

Department of Administration  
Division of Purchases

Notice to Bidders

Sealed bids for the following items will be received by the Director of Purchases, Room 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 296-2377 for additional information:

Monday, September 18, 2000

02151

University of Kansas—Multifunctional Duplicating Machines

Tuesday, September 19, 2000

02126

Kansas Correctional Industries—Dispersant and Surfactant

Wednesday, September 20, 2000

02077

Statewide—Express Mail (Domestic and International) and Small Package Delivery

02171

Pittsburg State University—Multimedia Projectors

Thursday, September 21, 2000

02199

Fort Hays State University—Chiller (Material Only)

Monday, September 25, 2000

01199

Department of Administration, Division of Facilities Management—Title Insurance

Tuesday, September 26, 2000

A-8272

University of Kansas—ADA Improvements, Military Science Building

Thursday, September 28, 2000

A-8951

University of Kansas—Electrical Distribution Improvements, Phase I

Tuesday, October 31, 2000

02130

Kansas Department of Corrections, Larned Correctional Mental Health Facility—Property Insurance

\*\*\*\*\*

Request for Proposals

Monday, September 18, 2000

02100

Laboratory Services for Emporia State University

Friday, September 29, 2000

02144

Community Supports and Services Conference, Training and Meeting Coordination for the Department of Social and Rehabilitation Services

John T. Houlihan  
Director of Purchases

Doc. No. 025652

State of Kansas

Department of Health  
and Environment

Notice of Hearing

The Kansas Department of Health and Environment has prepared a proposed Kansas Water Pollution Control Permit, A-URPL-S010, for Steven Cox Associates, LLC - SCA New Look 2, located near Long Island. Steven Cox Associates, LLC, SCA New Look 2, proposes a new facility for the confined feeding of 2,190 head (876 animal units) of swine weighing greater than 55 pounds each and 1,150 head (115 animal units) of swine weighing less than 55 pounds each. The proposed facility location is in the West Half of the Northwest Quarter of Section 21, Township 1 South, Range 20 West in Phillips County. The proposed permit was placed on public notice in the Kansas Register (Notice No. KS-AG-00-247).

A public hearing has been scheduled, in conformance with Kansas Administrative Regulation 28-16-61, on KDHE's intention to issue the proposed permit. The hearing will begin at 6 p.m. Tuesday, October 17, at the Community Building, Washington Street, Long Island.

Copies of the applicant's application, draft permit and other pertinent documents may be requested by contacting Dena Endsley, Kansas Department of Health and Environment, Bureau of Water, Livestock Waste Management Section, Forbes Field, Building 283, Topeka, 66620, (785) 296-6432 or fax (785) 296-5509. Appropriate copying charges will be assessed for each request.

Persons wishing to comment on the proposed permit may do so at the public hearing or may submit written statements to the address above by October 16. It is recommended that persons wishing to present oral testimony at the public hearing supply the hearing officer with a written copy of their testimony.

Any individual with a disability may request accommodation in order to participate in the public hearing process and may request the proposed permit in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting KDHE at the address above.

The Secretary of Health and Environment will make a final permit decision after consideration of all requirements of state statutes and regulations and of comments received during the public notice and public hearing process.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025642

State of Kansas

## Animal Health Department

Temporary Administrative  
Regulations

## Article 10.—PUBLIC LIVESTOCK MARKETS

**9-10-33. Electronic auctions.** (a) As part of the application for an electronic auction license, each owner or operator of an electronic auction that is simulcast into the state of Kansas and at which livestock located in the state of Kansas are offered for sale shall pay a license application fee to the livestock commissioner in the amount of \$40.00. The owner or operator shall pay an annual license renewal fee of \$40.00 before June 30 of each year.

(b) The electronic auction operator shall collect from each consignor of livestock at the electronic auction a fee of \$.15 per head of livestock sold at the electronic auction if the livestock are located in the state of Kansas. The electronic auction operator shall remit these fees to the commissioner in accordance with K.S.A. 47-1011, and amendments thereto.

(c) The costs associated with issuance of the health certificate required under K.S.A. 47-1008, and amendments thereto, shall be paid by the consignor. Each of these health certificates shall meet the requirements of K.A.R. 9-10-3. (Authorized by and implementing K.S.A. 47-1001e, as amended by L. 2000, Ch. 111, §7, K.S.A. 47-1008, as amended by L. 2000, Ch. 111, §8, and K.S.A. 47-1011, as amended by L. 2000, Ch. 111, §9; effective, T-9-8-29-00, Aug. 29, 2000.)

## Article 15.—LIVESTOCK BRANDS

**9-15-5. Brand inspection fees.** (a)(1) Each owner or seller of cattle or sheep that are in a brand inspection area shall pay a fee of \$.50 per head of cattle inspected by the livestock commissioner's brand inspectors and a fee of \$.05 per head of sheep inspected. The total minimum fee charged for each brand inspection area shall be the sum of \$20.00 plus a mileage charge per mile traveled by the brand inspector between the inspection site and the inspector's residence. The mileage charge shall be based on the schedule of charges for use of central motor pool vehicles established under K.S.A. 75-4607, and amendments thereto.

(2) If one or more of the livestock commissioner's brand inspectors provide on-site inspection of cattle or sheep that are not in a brand inspection area or a public livestock market, the owner or seller shall pay the fee established under paragraph (a)(1).

(b) The owner or seller shall pay the fee established under subsection (a) to the brand inspector at the conclusion of the inspection. (Authorized by K.S.A. 47-426, K.S.A. 47-436, and K.S.A. 47-437, as amended by L. 2000, Ch. 111, §5; implementing K.S.A. 47-417a and K.S.A. 47-437, as amended by L. 2000, Ch. 111, §5; effective, T-9-8-29-00, Aug. 29, 2000.)

George Teagarden  
Kansas Livestock Commissioner

State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment has received a permit application for Waste Connections, Inc. to operate a solid waste transfer station. The solid waste transfer station will be located north of 37th Street North and west of West Street in Wichita, in the Southeast ¼ of Section 26, Township 26S, Range 1W, Sedgwick County. KDHE is providing public notice of its intent to issue a solid waste processing facility permit to Waste Connections, Inc., which recently made submittals that place this solid waste transfer station in compliance with state regulations for solid waste processing facilities. KDHE has drafted a permit to reflect these submittals.

A copy of the administrative record, which includes the permit application and all information regarding this permit action, is available for public review until October 9 during normal business hours, Monday through Friday, at the following locations:

Kansas Department of Health and Environment  
Bureau of Waste Management  
Permits Section  
Forbes Field, Building 740  
Topeka, 66620  
Contact: Steve Sellmeyer  
(785) 296-1613

Kansas Department of Health and Environment  
South Central District Office  
130 S. Market, Suite 6050  
Wichita, 67202-3802  
Contact: Mark Bradbury  
(316) 337-6041

A public information meeting will be held from 3 to 4:30 p.m. October 2 in the Sunflower Room of the Sedgwick County Extension Education Center, Wichita. Anyone wishing to comment on the permit application and attached information should submit written statements postmarked not later than October 9 to Steve Sellmeyer (KDHE). Comments also may be voiced at 6 p.m. during a public hearing following the informational meeting, at the same location. After consideration of all comments received, the director of the Division of the Environment will make a final decision on whether to issue the permit. Notice of the decision will be given to anyone who submitted written comments during the comment period and to those who requested notice of the final permit decision.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025643

Doc. No. 025635

## State of Kansas

## Legislature

## Interim Committee Schedule

The following committee meetings have been scheduled during the period of September 11 through September 24. Any individual with a disability may request accommodation in order to participate in committee meetings. Requests for accommodation should be made at least two working days in advance of the meeting by contacting Legislative Administrative Services at (785) 296-2391 or TTY (785) 296-8430.

Date	Room	Time	Committee	Agenda
September 11 September 12	Garden City Dodge City	2:00 p.m. 9:00 a.m.	Joint Committee on Corrections and Juvenile Justice Oversight	Truancy issues; local court issues; local community corrections and parole issues; discussion of the Juvenile Detention Facility Fund.
September 12 September 13	514-S Canceled	9:00 a.m.	Task Force on Long-Term Care Services	12th: Testimony of conferees.
September 12 September 13	519-S 519-S	10:00 a.m. 9:00 a.m.	Joint Committee on Economic Development	Presentations on the establishment of local development authorities and continued presentations and committee discussion on tax increment financing.
September 13 September 14	Canceled Canceled		Joint Committee on State-Tribal Relations	
September 14	123-S	10:00 a.m.	Legislative Coordinating Council	Legislative matters.
September 14 September 15	245-N 245-N	10:00 a.m. 9:00 a.m.	Task Force on Kansas Mental Health System	Agenda not available.
September 14 September 15	514-S 514-S	10:00 a.m. 9:00 a.m.	Joint Committee on Administrative Rules and Regulations	Review rules and regulations proposed by the Board of Accountancy; Board of Emergency Medical Services; Dept. of Administration; Dept. of Agriculture; Dept. of Human Resources; Insurance Dept.; State Treasurer; Animal Health Dept.; and Dept. of Wildlife and Parks.
September 14	531-N	1:00 p.m.	Senate Confirmations Committee	Agenda not available.
September 14	Postponed		Joint Committee on Children's Issues	Postponed until September 26 to meet "jointly" with the SRS Transition Oversight Committee.
September 18 September 19	Canceled Canceled		Legislative Budget Committee	
September 18	519-S	1:00 p.m.	Legislative Post Audit Committee	Presenting the performance audit: "Seized Property in Kansas: Determining Whether Laws Governing the Sale of Property Are Being Followed, and How the Proceeds Are Spent" and the completed compliance and control audit: "The State Conservation Commission."
September 19 September 20	514-S 514-S	10:00 a.m. 9:00 a.m.	Legislative Educational Planning Committee	Agenda not available.
September 19 September 20	519-S 519-S	10:00 a.m. 9:00 a.m.	Task Force on State Education Technology-Based Network	Agenda not available.
September 20 September 21	123-S 123-S	10:00 a.m. 9:00 a.m.	Health Care Reform Legislative Oversight Committee	20th: Agenda not available. 21st: Dental issues.
September 20 September 21	245-N 245-N	10:00 a.m. 9:00 a.m.	Joint Committee on State Building Construction	Agenda not available.
September 21 September 22	Sprint Campus, Overland Park	10:00 a.m. 9:00 a.m.	Special Committee on Assessment and Taxation	Tour of the Sprint facility.



September 22	519-S	9:00 a.m.	Special Committee on Assessment and Taxation	Topic 3—Hearing and discussion on taxation of bundled telecommunications services. Topic 4—Hearings and discussion on sales tax treatment of water district purchases. Topic 5—Local Sales Tax Distribution.
September 22	519-S	10:30 a.m.	Streamlined Sales Tax System for the 21st Century Legislative Oversight Committee	Agenda not available.

Jeff Russell  
Director of Legislative  
Administrative Services

Doc. No. 025644

## State of Kansas

**Department of Health  
and Environment**

**Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Cooperative Refining has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to modify an existing compressor engine. Emissions of nitrogen oxides were evaluated during the permit review process.

Cooperative Refining owns and operates the stationary source located at 1391 Iron Horse Road, McPherson, at which an existing compressor engine is to be modified.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE North Central District Office, 2501 Market Place, Suite D, Salina. To obtain or review the proposed permit and supporting documentation, contact David A. Peter, (785) 296-1615, at the KDHE central office, or Joan Ratzlaff, (785) 827-9639, at the KDHE North Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to David A. Peter, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business October 9.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business October 9 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025648

(Published in the Kansas Register September 7, 2000.)

**Notice of Mandatory Partial Redemption  
City of Johnson, Kansas  
First Mortgage Revenue Bonds  
(Section 8 Assisted Housing Project)  
Dated April 1, 1978, 7.40% Due October 1, 2008  
(No Cusip No. Assigned)**

Notice is hereby given that pursuant to 302c of the Indenture of Trust and Mortgage dated April 1, 1978, the following outstanding bonds, in denominations of \$5,000 each, totaling \$20,000 aggregate principal amount of the above issue, will be redeemed at the option of the issuer on October 1, 2000 (the redemption date), at a redemption price of 100 percent of the principal amount thereof, plus accrued interest to the redemption date:

Bond #			
51	56	64	67

The bonds shall be payable upon presentation and surrender thereof on the redemption date to the paying agent, Commerce Bank N.A., Attn: Global Corporate Trust Services, 1 Bank One Plaza IL1-0125, Chicago, IL 60670-0125. Interest shall cease to accrue on all bonds called for redemption on and after October 1, 2000.

The method of presentation and delivery of such bonds for redemption is at the option and risk of the owners of each bond. It is suggested, however, if the securities are sent by mail, that the envelope be sent insured, registered, return receipt.

Under the provisions of the National Energy Policy Act of 1992, paying agents making payments of principal on municipal securities may be obligated to withhold an amount equal to 31 percent of remittances to individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the above-described securities who wish to avoid the imposition of this withholding should submit certified taxpayer identification numbers on Form W-9 when presenting their bonds for collection.

Dated September 1, 2000.

Commerce Bank, N.A.  
Wichita, Kansas  
Trustee

Doc. No. 025636

## State of Kansas

## Secretary of State

## Usury Rate for September

Pursuant to the provisions of K.S.A.16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate (except where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule) executed during the period of September 1, 2000 through September 30, 2000, is 9.51 percent.

Ron Thornburgh  
Secretary of State

Doc. No. 025632

## State of Kansas

## Secretary of State

## Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office. A complete listing of Kansas state agencies, boards and commissions, and Kansas county officials are included in the Kansas Directory, published by the Secretary of State. The directory also is available on the Secretary of State's web site at [www.kssos.org](http://www.kssos.org).

The following appointments, which are effective upon their filing with the Secretary of State unless otherwise specified, were recently filed with the Secretary of State:

## State Board of Accountancy

**Robert T. Schendel**, 11654 Grant Drive, Shawnee Mission, 66210. Term expires July 31, 2003. Reappointed.

**Gary R. Summers**, 3710 S.W. Canterbury Town Road, Topeka, 66610. Term expires July 31, 2003. Reappointed.

Kansas African-American  
Advisory Commission

**Ronald D. Cobb**, 4801 Wood Ave., Kansas City, KS 66102. Term expires June 30, 2001. Reappointed.

**James M. White**, 9701 Georgia St., Kansas City, KS 66109. Term expires June 30, 2001. Reappointed.

**Curtis L. Whitten**, 4421 N. Mission Road, Wichita, 67226. Term expires June 30, 2001. Succeeds Leo Taylor.

## Kansas Arts Commission

**Denice S. Morris**, 321 S. Denver, El Dorado, 67042. Term expires June 30, 2003. Reappointed.

**Burton M. Pell**, 3309 E. 13th St., Box 8816, Wichita, 67208. Term expires June 30, 2003. Reappointed.

**Rosalie E. Summers**, 9112 Boxthorn St., Wichita, 67226. Term expires June 30, 2003. Reappointed.

## State Board of Education, 6th District

**Bruce Wyatt**, 4401 W. State Street Road, Salina, 67401. Term expires when a successor is elected and qualifies according to law. Succeeds Scott Hill, resigned.

## Kansas Film Services Commission

**Sheryl J. Dick**, 1102 Hackberry, Garden City, 67846. Term expires June 30, 2003. Succeeds Richard Raleigh.

**Mary Alice Lair**, Route 1, Piqua, 66761. Term expires June 30, 2003. Succeeds Hoite Caston.

**Carol McDowell**, 41 S.W. Peppertree Lane, Topeka, 66611. Term expires June 30, 2003. Reappointed.

**Richard E. Shank**, 1002 Bannock Burn Road, Hutchinson, 67502. Term expires June 30, 2003. Reappointed.

**Beth G. Wittig**, 5 Westboro Place, Topeka, 66604. Term expires June 30, 2003. Succeeds Kathy Hanis.

Kansas Advisory Committee on  
Hispanic Affairs

**Guillermina Burley**, 6030 Hemlock, Great Bend, 67530. Term expires June 30, 2003. Reappointed.

**Robert DeLeon**, 1506 Mike's Drive, Garden City, 67846. Term expires June 30, 2003. Reappointed.

**Debora M. Ortega**, 1414 W. 21st Terrace, Lawrence, 66044. Term expires June 30, 2003. Reappointed.

## State Board of Nursing

**Judith A. Hiner**, 509 N. Overlook, Coffeyville, 67337. Term expires June 30, 2004. Succeeds Diane Reed.

## Board of Examiners in Optometry

**Dr. Sharon A. Michel Green**, 3111 W. 6th, Lawrence, 66049. Term expires April 30, 2003. Reappointed.

Persian Gulf War Veterans Health  
Initiative Advisory Board

**James A. Bunker**, 1703 S.W. 66th St., Pauline, 66619. Term expires June 30, 2003. Reappointed.

Task Force on Consolidation of  
Public Safety Agencies

(Established by 2000 Session Laws of Kansas,  
Chapter 134. Terms expire January 1, 2001.)

**Loren Anderson**, 657 N. 400th Road, Overbrook, 66524.

**Jerry L. Hallbauer**, 1725 S. Central, Chanute, 66720.

**Dr. Lyle J. Noordhoek**, 2509 Felten, Hays, 67601.

**Robert J. Rodriguez**, 2013 Meadowlark Lane, Emporia, 66801.

**Janette L. Satterfield**, 620 S. Denver, El Dorado, 67042.

## Kansas Real Estate Commission

**Gerald R. Kuckelman**, 717 N. 3rd St., Atchison, 66002. Term expires April 30, 2004. Reappointed.

## Advisory Committee on Trauma

**Tajquah J. Hudson**, 10550 Noland Road, Overland Park, 66215. Succeeds William Robertson.

## Kansas Commission on Veterans' Affairs

**Udie Grant**, 1427 Meadow Lane, McPherson, 67460. Term expires June 30, 2004. Reappointed.

**Dwight D. Keen**, 1 Tam-O-Shanter Court, Winfield, 67156. Term expires June 30, 2004. Reappointed.

Ron Thornburgh  
Secretary of State

Doc. No. 025554

State of Kansas

**Secretary of State**

**Code Mortgage Rate for September**

Pursuant to the provisions of K.S.A. 1999 Supp. 16a-1-301, Section 11, the code mortgage rate during the period of September 1, 2000 through September 30, 2000, is 13.01 percent.

Ron Thornburgh  
Secretary of State

Doc. No. 025633

(Published in the Kansas Register September 7, 2000.)

**Summary Notice of Bond Sale**

**City of Hays, Kansas**

**\$2,450,000**

**General Obligation Internal Improvement Bonds**

**Series 2000-A**

**(General obligation bonds payable from unlimited ad valorem taxes)**

**Bids**

Subject to the notice of bond sale dated August 24, 2000, bids will be received by the city clerk of the City of Hays, Kansas, on behalf of the governing body at 1507 Main, Hays, KS 67601, until 3 p.m. September 14, 2000, for the purchase of \$2,450,000 principal amount of General Obligation Internal Improvement Bonds, Series 2000-A. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will initially be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York, to which payments of principal of and interest on the bonds will be made. Individual purchases of bonds will be made in book-entry form only. Purchasers will not receive certificates representing their interest in bonds purchased. The bonds will be dated September 15, 2000, and will become due on September 1 in the years as follows:

Year	Principal Amount
2001	\$130,000
2002	130,000
2003	135,000
2004	140,000
2005	150,000
2006	155,000
2007	160,000
2008	170,000
2009	180,000
2010	185,000
2011	85,000
2012	85,000
2013	90,000
2014	95,000
2015	100,000

2016	85,000
2017	85,000
2018	90,000
2019	95,000
2020	105,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on March 1 and September 1 in each year, beginning March 1, 2001.

**Redemption Prior to Maturity**

The bonds will be subject to optional and mandatory redemption prior to maturity as provided in the notice of sale and preliminary official statement.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States or a financial surety bond in the amount of 2 percent of the principal amount of the bonds.

**Delivery**

The city will pay for preparing the bonds. The city will deliver the bonds in book-entry form only through the facilities of the Depository Trust Company, New York, New York, on or about September 28, 2000.

**Assessed Valuation and Indebtedness**

The total assessed valuation of the taxable tangible property within the city for the year 1999 is \$131,815,723. The estimated equalized assessed tangible valuation for the year 2000, as provided by the Ellis County Clerk's office and used for budgeting purposes, is \$133,800,520. The total general obligation bonded indebtedness of the city as of the date of the bonds, including the bonds but excluding temporary notes to be retired with proceeds of the bonds, is \$16,682,551.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., Kansas City, Missouri, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the city, and will accompany the bonds and be delivered to the successful bidder when the bonds are delivered. Reference is made to the preliminary official statement for further discussion of federal and Kansas income tax matters relating to the interest on the bonds.

**Additional Information**

Additional information regarding the bonds may be obtained from the city clerk, (785) 628-7300, or from the city's financial advisor, George K. Baum & Company, Kansas City, Missouri, (816) 474-1100.

Dated August 24, 2000.

City of Hays, Kansas  
By: Carol Sue Berger, City Clerk  
1507 Main  
Hays, KS 67601

Doc. No. 025647

(Published in the Kansas Register September 7, 2000.)

**Summary Notice of Bond Sale  
\$675,500  
City of St. Marys, Kansas  
General Obligation Bonds  
Series 2000A**

**(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the official notice of bond sale and preliminary official statement dated September 5, 2000, sealed bids will be received by the city clerk of the City of St. Marys, Kansas (the issuer), on behalf of the governing body of the city at City Hall, 702 W. Bertrand, St. Marys, KS 66536, until 2 p.m. Tuesday, September 19, 2000, for the purchase of \$675,500 principal amount of General Obligation Bonds, Series 2000A. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, except one bond in either the denomination of, or including, \$5,500. The bonds will be dated October 1, 2000, and will become due on October 1 in the years as follows:

Year	Principal Amount
2001	\$30,500
2002	30,000
2003	30,000
2004	30,000
2005	30,000
2006	35,000
2007	35,000
2008	35,000
2009	35,000
2010	35,000
2011	35,000
2012	35,000
2013	35,000
2014	35,000
2015	35,000
2016	35,000
2017	35,000
2018	35,000
2019	35,000
2020	35,000

The bonds will be subject to optional redemption prior to maturity as provided in the official notice of bond sale and preliminary official statement.

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on April 1 and October 1 in each year, beginning April 1, 2001.

**Paying Agent and Bond Registrar**

The paying agent and bond registrar will be the Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$13,510 (2 percent of the principal amount of the bonds).

**Delivery**

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered at such bank or trust company in the contiguous United States as may be specified by the successful bidder without cost to the successful bidder within 45 days after the date of sale.

**Assessed Valuation and Indebtedness**

The total assessed valuation of taxable tangible property in the city for the year 2000 is \$9,759,928. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$1,858,000, including, as of the date of the bonds, temporary notes outstanding in the principal amount of \$677,500, of which \$677,500 will be retired out of the proceeds of the bonds.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer and delivered to the successful bidder when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from the city clerk, (785) 437-2311.

Dated September 5, 2000.

City of St. Marys, Kansas  
Cindy K. Sweany, City Clerk  
City Hall  
702 W. Bertrand  
St. Marys, KS 66536

Doc. No. 025649

**State of Kansas****Department of Wildlife and Parks****Permanent Administrative  
Regulations****Article 18.—SPECIAL PERMITS**

**115-18-10. Importation and possession of certain wildlife; prohibition, permit requirement, and restrictions.** (a) The following live wildlife species shall be prohibited from importation, possession, or release in the state of Kansas, except as authorized by terms of a wildlife importation permit issued by the secretary:

- (1) Walking catfish (*Clarias batrachus*);
- (2) silver carp (*Hypophthalmichthys molitrix*);
- (3) bighead carp (*Aristichthys nobilis*);
- (4) black carp (*Mylopharyngodon piceus*);
- (5) monk parakeet (*Myiopsitta monachus*); and
- (6) Asian raccoon dog (*Nyctereutes procyonoides*).

(b) Any live member of a wildlife species listed in subsection (a) and possessed before the following dates may be retained in possession, in closed confinement, by making application to the secretary that provides information detailing the circumstances, including the location, by which the animal came into the applicant's possession:

- (1) February 1, 1978, for fish and bird species other than black carp;
- (2) February 1, 1986, for mammal species; and
- (3) October 1, 2000, for black carp.

The manner in which the animal is to be used shall be identified in the application.

(c) Wildlife importation permits for the importation or possession of live members of the wildlife species listed in subsection (a) may be issued by the secretary for experimental, scientific, display, or other purposes subject to any conditions and restrictions contained or referenced in the wildlife importation permit.

(d) Any individual desiring to import or possess live members of the wildlife species listed in subsection (a) shall apply to the secretary for a wildlife importation permit. The application shall be submitted on forms provided by the department and shall contain the following information:

- (1) The name, address, and telephone number of applicant;
- (2) the wildlife species to be imported or possessed and the number of wildlife involved;
- (3) the purpose or purposes for importation or possession;
- (4) a description of facilities for holding and using the wildlife species;
- (5) a description of plans to prevent release of the wildlife species; and
- (6) other information as requested by the secretary.

(e) Each wildlife importation permit, once issued, shall be valid during the time period specified on the permit.

(f) In addition to other penalties prescribed by law, any wildlife importation permit may be refused issuance or revoked by the secretary if any of the following conditions is met:

- (1) The application is incomplete or contains false information.
- (2) Issuance of a permit would not be in the best interest of the public or of the natural resources of Kansas.
- (3) The permittee fails to meet permit requirements or violates permit conditions. (Authorized by K.S.A. 32-807 and K.S.A. 32-956; implementing K.S.A. 32-956; effective Dec. 27, 1993; amended Sept. 22, 2000.)

**115-18-13. Dark geese; management units, permits, and restrictions.** (a) Dark geese shall include Canada geese, white-fronted geese, and black brant.

(b) The following dark goose management units shall be established for the taking of dark geese under special restrictions.

(1) Marais des Cygnes Valley; unit 1: that part of Kansas bounded by a line from the Kansas-Missouri state line west on state highway K-68 to its junction with federal highway US-169, then southwest on federal highway US-169 to its junction with state highway K-7, then south on state highway K-7 to its junction with state highway K-

31, then east on state highway K-31 to its junction with federal highway US-69, then north on federal highway US-69 to its junction with state highway K-239, then east on state highway K-239 to its junction with the Kansas-Missouri state line, then north on the Kansas-Missouri state line to its junction with state highway K-68, except federal and state sanctuaries.

(2) Southeast; unit 2: that part of Kansas bounded by a line from the Kansas-Missouri state line east on federal highway US-160 to its junction with federal highway US-69, then north on federal highway US-69 to its junction with state highway K-39, then west on state highway K-39 to its junction with federal highway US-169, then south on federal highway US-169 to its junction with the Kansas-Oklahoma state line, then east on the Kansas-Oklahoma state line to its junction with the Kansas-Missouri state line, then north on the Kansas-Missouri state line to its junction with federal highway US-160, except federal and state sanctuaries.

(c) Dark goose hunting in management units 1 and 2 shall be by permit only. This requirement, however, shall not apply on any date approved by the United States fish and wildlife service as a youth waterfowl hunting day.

(1) Each dark goose permit shall be valid only in both management units 1 and 2.

(2) Each dark goose permit shall be nontransferable, and each permit shall be signed and dated by the permittee in order to be valid.

(3) Each dark goose permit shall expire on June 30 following the date of issuance.

(d) The statewide daily bag and possession limit for dark geese shall apply throughout the state, including dark goose management units.

(e) In addition to other penalties prescribed by law, each dark goose permit shall be invalid from the date of issuance if obtained by an individual through misrepresentation or unauthorized application. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Aug. 15, 1994; amended Sept. 19, 1997; amended Sept. 25, 1998; amended Oct. 1, 1999; amended Sept. 22, 2000.)

**115-18-16. Light goose conservation order; general provisions and restrictions.** (a) Light geese shall include lesser snow geese and Ross' geese.

(b) An individual may harvest light geese outside of regularly established waterfowl hunting season dates only if that individual possesses any licenses and stamps required during regularly established waterfowl hunting seasons in Kansas.

(c) In addition to regularly established waterfowl hunting seasons, harvest of light geese shall be allowed from January 1 through April 30. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-1002, and K.S.A. 32-1008; effective, T-115-2-17-00, Feb. 17, 2000; effective Sept. 22, 2000.)

Steve Williams  
Secretary of Wildlife  
and Parks

Doc. No. 025630

## State of Kansas

**Department of Agriculture  
Division of Water Resources**

**Permanent Administrative  
Regulations**

**Article 1.—DEFINITIONS**

**5-1-1. Definitions.** As used in these regulations and the Kansas water appropriation act, and by the division of water resources in the administration of the Kansas water appropriation act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation.

(a) "Above-baseflow stage" means streamflow that is in response to a significant runoff event during which period the water level elevation of the stream is greater than the elevation of the adjacent water table.

(b) "Acceptable quality surface water" means surface water that will not degrade the quality of the groundwater source into which it is discharged.

(c) "Application" means the formal document submitted on the form prescribed by the chief engineer for a permit to appropriate water for beneficial use and filed in the office of the chief engineer as provided by K.S.A. 82a-708a and 82a-709, and amendments thereto.

(d) "Approval of application" means a permit to proceed with construction of diversion works and the diversion and use of water in accordance with the terms and conditions set forth in the permit. Approval of application shall not constitute any permit that may be required by other state laws.

(e) "Aquifer storage" means the act of storing water in the unsaturated portion of an aquifer by artificial recharge for subsequent diversion and beneficial use.

(f) "Aquifer storage and recovery system" means the physical infrastructure that meets the following conditions:

(1) Is constructed and operated for artificial recharge, storage, and recovery of source water; and

(2) consists of apparatus for diversion, treatment, recharge, storage, extraction, and distribution.

(g) "Artificial recharge" means the use of source water to artificially replenish the water supply in an aquifer.

(h) "Authorized representative" means any staff employee designated by the chief engineer to perform duties and functions on behalf of the chief engineer.

(i) "Bank storage" means water absorbed by and temporarily stored in the banks and bed of a stream during above-baseflow stage.

(j) "Bank storage well" means a well used to divert or withdraw water from bank storage.

(k) "Basin storage area" means the portion of the aquifer's unsaturated zone used for aquifer storage that has defined horizontal boundaries and is delimited by the highest and lowest index water level elevations.

(l) "Basin storage loss" means that portion of artificial recharge naturally flowing or discharging from the basin storage area.

(m) "Basin term permit" means a term permit to appropriate surface water from a stream within a specific

drainage basin, or a portion of it, for a reasonable quantity of water, not to exceed a maximum of 100 acre-feet per calendar year, for use in either of the following:

(1) Drilling oil and gas wells; or

(2) construction projects within the specified basin.

(n) "Battery of wells" means two or more wells connected to a common pump by a manifold, or not more than four wells in the same local source of supply within a 300-foot-radius circle that are being operated by pumps not to exceed a total maximum rate of diversion of 800 gallons per minute and that supply water to a common distribution system.

(o) "Beneficial uses of water" are the following:

(1) Domestic uses;

(2) stockwatering;

(3) municipal uses;

(4) irrigation;

(5) industrial uses;

(6) recreational uses;

(7) waterpower;

(8) artificial recharge;

(9) hydraulic dredging;

(10) contamination remediation;

(11) dewatering;

(12) fire protection; and

(13) thermal exchange.

(p) "Completed substantially as shown on aerial photograph, topographic map, or plat," as used to define the authorized point of diversion, means within 300 feet of the location as shown on the aerial photograph, topographic map, or plat accompanying the application.

(q) "Confined Dakota aquifer system" means that portion of the Dakota aquifer system overlain by Graneros shale.

(r) "Conjunctive use" means the safe-yield management and operation of an aquifer in coordination with a surface water system to enhance the use of the total water supply availability in accordance with the provisions of the water appropriation act.

(s) "Contamination remediation" means the diversion of water by a state agency, or under a written agreement or order of an appropriate state agency, for the purpose of improving the water quality.

(t) "Dakota aquifer system" shall include the Dakota formation, the Kiowa formation, the Cheyenne sandstone, and, where hydraulically connected, the Morrison formation.

(u) "Dakota aquifer system well" means a well or proposed well screened in whole or in part in the Dakota aquifer system.

(v) "Dewatering" means the removal of surface water or groundwater to achieve either of the following:

(1) Facilitate the construction of a building, pipeline, or other facility; or

(2) protect a building, levee, mining activity, or other facility.

(w) "Direct diversion of surface water" means the diversion of surface water directly from a stream by means of a pump, headgate, siphon, or similar installation, for application to beneficial use without storing it behind a dam, levee, or similar type of structure.

(x) "Diversion" means the act of bringing water under control by means of a well, pump, dam, or other device for delivery and distribution for the proposed use.

(y) "Diversion works" means any well, pump, power unit, power source, dam, and any other devices necessary to bring water under control for delivery to a distribution system by which the water will be distributed to the proposed use and any other equipment required as a condition of the permit, including a check valve, water level measurement tube, meter, or other measuring device.

(z) "Division" means the division of water resources of the Kansas department of agriculture.

(aa) "Dry hydrant" means a permanent, unpressurized intake pipe used to remove water from a pond, stream, reservoir, or other surface water supply by means of suction or vacuum supplied by a fire truck or other portable pumping device.

(bb) "Field inspection" means that for the purpose of issuing a certificate of appropriation pursuant to K.S.A. 82a-714 and amendments thereto, the chief engineer conducts a test of the rate of diversion of the diversion works under the normal and maximum conditions that the diversion works actually applied water to beneficial use during the perfection period. The chief engineer also collects all other information necessary to prepare a certificate, including the following:

(1) A description of the location and size of the place where water was actually applied to beneficial use during the perfection period in accordance with the terms, conditions, and limitations of the approval of application;

(2) information on the quantity and rate of water that was applied to the authorized use during the perfection period; and

(3) the actual location of the point or points of diversion from which water was diverted in accordance with the terms, conditions, and limitations of the approval of application.

(cc) "Fire protection" means the use of water for fire protection by a fire department for public protection in general.

(dd) "Fish farming" means the controlled cultivation and harvest of aquatic animals.

(ee) "Flow-straightening vanes" means vanes, or other device installed at the upstream throat of a measuring chamber for the purpose of aligning all velocity components of flow parallel with the flow in the measuring chamber at the water flowmeter sensor location.

(ff) "Full irrigation" means the application of water to crops during the growing season. Full irrigation shall include water for preirrigation.

(gg) "Groundwater" means water below the surface of the earth.

(hh) "Growing season" means the average frost-free period of the year.

(ii) "Household purposes" means the use of water by a person for cooking, cleaning, washing, bathing, human consumption, rest room facilities, fire protection, and other uses normally associated with the operation of a household.

(1) "Fire protection" shall be considered to be use of water for "household purposes" if either of the following conditions is met:

(A) Water is available from a "dry hydrant" that has been installed on a pond located within 1,000 feet of the residence.

(B) Water can be pumped from a well located within 1,000 feet of the residence for fire protection.

(2) Household purposes shall also include the replacement of the potential net evaporation from a domestic pond of up to ½ acre in surface area if both of the following conditions are met:

(A) The pond is utilized for aesthetic purposes as an integral part of the landscaping of a house.

(B) Any portion of the pond is located within 300 feet of the closest edge of the house.

(3) The maximum reasonable annual quantity of groundwater that may be pumped into a pond to be withdrawn later for domestic fire protection shall not exceed 0.06 acre-feet plus the average annual potential net evaporation for a pond at that location in the state having a surface area of 0.2 of an acre.

(4) Household purposes shall also include the use of 1½ acre-feet of water or less per calendar year by an industrial user, restaurant, hotel, motel, church, camp, correctional facility, educational institution, or similar entity for household purposes.

(jj) "Hydraulic dredging" means the removal of saturated aggregate from a stream channel, pit, or quarry by means of hydraulic suction and the pumping of the aggregate and water mixture as a slurry to a location where at least 95% of the water returns directly to the source of supply.

(kk) "Immediate vicinity," as used in specifying the place of use for a water right in which the water is authorized to be used for municipal purposes, means within 2,640 feet of the corporate limits of the municipality, rural water district, or other entity.

(ll) "In compliance" means that a water flowmeter does not meet any of the criteria of K.A.R. 5-1-9 for being out of compliance.

(mm) "Index water level" means water level elevations established spatially throughout a basin storage area to be used to represent the maximum volume of a basin storage area, and storage available for recovery based upon accounting methodology, and conditions of the permit.

(nn) "Indirect use" means the total of the seepage loss and the average annual potential net evaporation loss from the surface of water originally impounded in a reservoir for beneficial use.

(oo) "Industrial use" means the use of water in connection with the manufacture, production, transport, or storage of products, or the use of water in connection with providing commercial services, including water used in connection with steam electric power plants, greenhouses, fish farms, poultry operations that are not incidental to the operation of a traditional farmstead pursuant to K.S.A. 82a-701(c) and amendments thereto, secondary and tertiary oil recovery, air conditioning, heat pumps, equipment cooling, and all uses of water associated with the removal of aggregate for commercial purposes except the following:

(1) The evaporation caused by exposing the groundwater table or increasing the surface area of a stream,

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lake, pit, or quarry by excavation or dredging, unless the evaporation has a substantially adverse impact on the area groundwater supply; and

(2) hydraulic dredging.

(pp) "Irrigation use" means the use of water for the following:

- (1) The growing of crops;
- (2) the watering of gardens, orchards, and lawns exceeding two acres in area; and
- (3) the watering of golf courses, parks, cemeteries, athletic fields, racetrack grounds, and similar facilities.

(qq) "Measuring chamber" means a cylindrical chamber in which a water flowmeter is installed that is calibrated to match the measuring element of the water flowmeter and the nominal size of the pipe in which it is installed.

(rr) "Municipal use" means the various uses made of water delivered through a common distribution system operated by any of the following:

- (1) A municipality;
- (2) a rural water district;
- (3) a water district;
- (4) a public wholesale water supply district;
- (5) any person or entity serving 10 or more hookups for residences or mobile homes; or
- (6) any other similar entity distributing water to other water users for various purposes.

Municipal use shall also include the use of water by restaurants, hotels, motels, churches, camps, correctional facilities, educational institutions, and similar entities using water that does not qualify as a domestic use.

(ss) "Nonvolatile memory" means the ability of a water flowmeter to retain the values stored in the mechanical or electronic memory if all power, including backup battery power, is removed.

(tt) "Normal operating range" means the range of flow rates for which the water flowmeter will meet the accuracy requirements of K.A.R. 5-1-4 (a), as certified by the water flowmeter manufacturer.

(uu) "Off-season irrigation" means the application of water to land for the purpose of storing moisture in the soil for future use by a crop that will not be irrigated during the growing season.

(vv) "Operator," as used in the regulation of sand and gravel pits, means any person who engages in mining sand or gravel, or both.

(ww) "Perfect" means the actions taken by a water user to develop an approval of application into a water right. These actions shall consist of the completion of the diversion works and the actual application of water to the authorized beneficial use in accordance with the terms, conditions, and limitations of the approval of application.

(xx) "Point of diversion" means the point at which water is diverted or withdrawn from a source of water supply.

(yy) "Point of diversion for storage of surface water in a reservoir created by a dam" means the point at which the longitudinal axis of the dam crosses the centerline of the stream impounded by the reservoir.

(zz) "Potential annual runoff" means the mean annual runoff for the watershed of the reservoir.

(aaa) "Preirrigation" means the application of water to the land for a crop before planting to assure adequate moisture for early plant growth.

(bbb) "Primary well" means a well for which a standby well is available.

(ccc) "Prior right" means a vested right, an appropriation right with earlier priority, or a permit with earlier priority than that of a subsequent appropriation right or permit.

(ddd) "Proven reserves" means extractable sand and gravel deposits for which good estimates of the quantity and quality have been made by various means, including core drilling.

(eee) "Recharge" means the natural infiltration of surface water or rainfall into an aquifer from its catchment area.

(fff) "Recharge credit" means the quantity of water that is stored in the basin storage area and that is available for subsequent appropriation for beneficial use by the operator of the aquifer storage and recovery system.

(ggg) "Recreation storage" means the storage and use of water within the reservoir for recreational use as defined in this regulation. Water stored for recreation use in a reservoir shall be considered to be an indirect use of water.

(hhh) "Recreational use" means a use of water in accordance with a water right that provides entertainment, enjoyment, relaxation, and fish and wildlife benefits.

(iii) "Rediversion of water" means releasing or withdrawing water that had been previously impounded behind a dam, levee, or similar type of structure, by use of a pump, outlet tube, headgate, or similar type of device, and the application of the water directly to beneficial use.

(jjj) "Register" means an integral or remote device that displays the quantity of water passing the water flowmeter sensor and is part of the water flowmeter.

(kkk) "Reservoir capacity" means the volume of water that can be stored below the lower of either of the following:

- (1) The elevation of the principal spillway tube; or
- (2) the lowest uncontrolled spillway in the reservoir.

(lll) "Reservoir having a total water volume of less than 15 acre-feet," as used in K.S.A. 82a-728 and amendments thereto, means a reservoir having a capacity of 15 acre-feet or less as measured at the principal spillway tube or the lowest uncontrolled spillway, whichever is lower.

(mmm) "Safe yield" means the long-term sustainable yield of the source of supply, including hydraulically connected surface water or groundwater.

(nnn) "Sand and gravel pit operation" means a project that meets the following conditions:

- (1) Excavates overburden for mining sand or gravel, or both, exposing the underlying groundwater table to evaporation; and
- (2) has a perimeter equal to or greater than its depth.

(ooo) "Source water" means water used for artificial recharge that meets the following conditions:

- (1) Is available for appropriation for beneficial use;
- (2) is above base-flow stage in the stream;
- (3) is not needed to satisfy minimum desirable stream-flow requirements; and



(4) will not degrade the ambient groundwater quality in the basin storage area.

(ppp) "Specialty crop" means a crop other than a normal Kansas field crop. This term shall include turf grass, trees, vegetables, ornamentals, and other similar crops.

(qqq) "Standby well" means a well that can withdraw water from the same source of supply as the primary well and that is used only when water is temporarily unavailable from the primary well or wells authorized to be used on the same place of use because of mechanical failure, maintenance, or power failure. A standby well may also be used for fire protection or a similar type of emergency.

(rrr) "Static water level" means the depth below land surface at which the top of the groundwater is found when not affected by recent pumping.

(sss) (1) "Stockwatering" means the watering of livestock and other uses of water directly related to either of the following:

(A) The operation of a feedlot with the capacity to confine 1,000 or more head of cattle; or

(B) any other confined livestock operation or dairy that would divert 15 or more acre-feet of water per calendar year.

(2) Stockwatering shall not include the irrigation of feed grains or other crops.

(3) For the purposes of this subsection, a group of feedlots or other confined feeding operations shall be considered to be one feedlot or confined feeding operation if both of these conditions are met:

(A) There are common feeding or other physical facilities.

(B) The group of facilities is under common management.

(ttt) "Straight pipe" means a straight length of pipe free of all internal obstructions, including size changes, valves, cooling coils, injection ports, sand or foreign material, and any other condition that would cause a disturbance of the internal velocity profile in the pipe. Internal obstructions shall not include properly designed, constructed, and installed straightening vanes and inspection ports.

(uuu) "Stream channel aquifer" means unconsolidated water-bearing deposits in river valleys, flood plains, and terraces that are separate and distinct from any other aquifer and capable of yielding water in sufficient quantities for beneficial use.

(vvv) "Surface water" means water in creeks, rivers, or other watercourses, and in reservoirs, lakes, and ponds.

(www) "Term permit" means a permit to appropriate water issued for a specified period of time. At the end of the specified time, or any authorized extension of it, the permit shall be automatically dismissed, and any priority it may have had shall be forfeited.

(xxx) "The production and return of saltwater in connection with the operation of oil and gas wells in accordance with the written approval granted therefor by the Kansas corporation commission pursuant to K.S.A. 55-901, and amendments thereto" means only that saltwater actually produced during the primary production of oil and gas wells and shall not include the following:

(1) Saltwater used in the drilling of an oil and gas well; and

(2) saltwater injected into an enhanced recovery injection well, unless that saltwater was produced in the primary production of the oil and gas well, separated from the oil and gas, and then subsequently reinjected.

(yyy) "Thermal exchange" means the use of water for climate control in a nondomestic building and in a manner that is essentially nonconsumptive to the source of supply.

(zzz) "Totalizer" means the mechanical or electronic portion of the register that displays the total quantity of water that has passed the water flowmeter sensor.

(aaa) "Unconfined Dakota aquifer system" means that portion of the Dakota aquifer system not overlain by Graneros shale.

(bbb) "Unconsolidated regional aquifer" means a body of mostly unconsolidated and heterogeneous water-bearing deposits that are hydraulically and geologically contiguous, and are capable of yielding water in sufficient quantities for beneficial use.

(ccc) "Waste of water" means any act or omission that causes any of the following:

(1) The diversion or withdrawal of water from a source of supply that is not used or reapplied to a beneficial use on or in connection with the place of use authorized by a vested right, an appropriation right, or an approval of application for a permit to appropriate water for beneficial use;

(2) the unreasonable deterioration of the quality of water in any source of supply, thereby causing impairment of a person's right to the use of water;

(3) the escaping and draining of water intended for irrigation use from the authorized place of use; or

(4) the application of water to an authorized beneficial use in excess of the needs for this use.

(ddd) "Waterpower use" means the use of falling water for hydroelectric or hydromechanical power.

(eee) "Water balance" means the method of determining the amount of water in storage in a basin storage area by accounting for inflow to, outflow from, and changes in storage in that basin storage area.

(fff) "Water flowmeter" means the combination of a flow-sensing device, measuring chamber, integral or remote display device or register, and any connecting parts required to make a working assemblage to measure, record, and allow determination of flow rate and total quantity of water flowing past the water flowmeter sensor.

(ggg) "Water storage device" means a reservoir, elevated water tank, pressurized water tank, including a bladder tank, or other container into which water is pumped and stored before beneficial use.

(hhh) "Water use correspondent" means a person designated in writing, on a form prescribed by the chief engineer, by one of the owners of a water right to file the water use reports required by K.S.A. 82a-732 and amendments thereto, on behalf of the owner or owners of that water right. (Authorized by and implementing K.S.A. 82a-706a; modified, L. 1978, ch. 460, May 1, 1978; amended May 1, 1980; amended May 1, 1981; amended

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May 1, 1983; amended May 1, 1986; amended Dec. 3, 1990; amended May 31, 1994; amended Sept. 22, 2000.)

**5-1-3. Permitting requirements of the Kansas water appropriation act.** An individual engaged in the drilling of water well test holes, seismic test holes, stratigraphic test holes, observation wells, and water quality sampling wells, shall not be required to have an approval of application pursuant to the Kansas water appropriation act if water will not be diverted for beneficial use. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-701(f), 82a-703, 82a-705, and K.S.A. 1999 Supp. 82a-711; effective Sept. 22, 2000.)

**5-1-4. Water flowmeter specifications.** Each water flowmeter required by the chief engineer, or required pursuant to a regulation adopted by the chief engineer, on or after the effective date of this regulation shall meet the following minimum requirements:

(a)(1) The water flowmeter shall be certified by the manufacturer to register neither less than 98 percent nor more than 102 percent of the actual volume of water passing the water flowmeter when installed according to the manufacturer's instructions. This requirement shall be met throughout the water flowmeter's normal operating range without further adjustment or calibration.

(2) The manufacturer shall certify to the chief engineer that it has an effective quality assurance program, including wet testing a random sample of production line water flowmeters with water flowmeter test equipment. The minimum number of samples to be tested shall be determined using a confidence interval of 90 percent, an expected compliance of 95 percent, and an acceptable error of two percent. The minimum number of samples of each model that shall be tested shall be calculated by multiplying 1,300 times the annual production of that model of water flowmeter divided by Q. Q equals four times the annual production of that water flowmeter plus 1,300.

(3) The manufacturer shall certify that the water flowmeter test equipment described in paragraph (a)(2) has been tested annually and found accurate by standards traceable to the national institute of standards and technology (NIST). Documentation of the testing required in paragraphs (a)(1) and (2) shall be maintained by the manufacturer for a period of at least five years and shall be made available to the chief engineer upon request during normal business hours.

(b) The water flowmeter shall be designed and constructed so that it will meet the following criteria:

(1) Maintain the accuracy required by the chief engineer in K.A.R. 5-1-4(a) and K.A.R. 5-1-9(a);

(2) be protected by the following:

(A) A seal installed by the manufacturer or an authorized representative of the manufacturer; or

(B) a way that makes it impossible to alter the totalizer reading without breaking the seal or obtaining the authorization of the manufacturer, an authorized representative of the manufacturer, or the chief engineer.

(3) clearly indicate the direction of water flow;

(4) clearly indicate the serial number of the water flowmeter;

(5) have a weatherproof register that is sealed from all water sources;

(6) have a register that is readable at all times, whether the system is operating or not;

(7) be able to be sealed by an authorized representative of the chief engineer to prevent unauthorized manipulation of, tampering with, or removal of the water flowmeter;

(8) be equipped with a manufacturer-approved measuring chamber through which all water flows. Except for positive displacement water flowmeters and multijet water flowmeters, flow-straightening vanes shall be installed at the upstream throat of the water flowmeter chamber. The flow-straightening vanes shall meet either of the following criteria:

(A) Be designed and installed by the manufacturer, or an authorized representative of the manufacturer; or

(B) consist of at least three vanes that meet the following conditions:

(i) Are longer, when placed parallel to the length of the pipe, than the inside diameter of the pipe;

(ii) are equally spaced radially on the inner periphery of the pipe; and

(iii) are wider in diametrical distance than one-fourth of the inside diameter of the pipe;

(9) be equipped with an inspection port if the straightening vanes are not designed, constructed, and installed by the manufacturer or an authorized representative of the manufacturer. The port shall be of sufficient size and placement to allow determination of the following:

(A) The proper installation of the flow-straightening vanes; and

(B) the inside diameter of the pipe in which the water flowmeter sensor is installed;

(10) remain operable without need for recalibration to maintain accuracy throughout the operating life of the water flowmeter; and

(11) have a totalizer that meets the following criteria:

(A) Is continuously updated to read directly only in acre-feet, acre-inches, or gallons;

(B) has sufficient capacity, without cycling past zero more than once each year, to record the quantity of water diverted in any one calendar year;

(C) reads in units small enough to discriminate the annual water use to within the nearest 0.1 percent of the total annual permitted quantity of water;

(D) has a dial or counter that can be timed with a stopwatch over not more than a 10-minute period to accurately determine the rate of flow under normal operating conditions; and

(E) has a nonvolatile memory.

(c) Each water flowmeter that is required to be installed by the chief engineer, or that was required to be installed as a condition of either an approval of application or an order of the chief engineer, or pursuant to a regulation adopted by the chief engineer before the effective date of this regulation, shall meet the following minimum specifications:

(1) Each water flowmeter shall be of the proper size, pressure rating, and style, and shall have a normal operating range sufficient to accurately measure the water flow passing the water flowmeter under normal operating conditions.

(2) Each water flowmeter shall meet the accuracy requirements of K.A.R. 5-1-9(a). If the water flowmeter does not meet the accuracy requirements of K.A.R. 5-1-9(a), then the water flowmeter shall meet either of the following criteria:

(A) Be repaired so that it can meet the accuracy requirements of K.A.R. 5-1-9(a); or

(B) be replaced with a water flowmeter complying with all of the requirements of K.A.R. 5-1-4 and installed in a manner that meets the requirements of K.A.R. 5-1-6. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-1-5. Variances from water flowmeter specifications.** (a) A variance from the chief engineer's water flowmeter specifications may be granted by the chief engineer if the water right owner furnishes detailed specifications of a proposed water flowmeter and demonstrates to the chief engineer all the following:

(1) A water flowmeter meeting the specifications of K.A.R. 5-1-4 will not satisfactorily serve the water user's needs.

(2) The proposed water flowmeter will meet the accuracy requirements of K.A.R. 5-1-4(a) and (b).

(3) The proposed water flowmeter will provide a reliable and accurate water use record for that point of diversion.

(b) Variances shall be granted only on a site-by-site, case-by-case basis. No general variances shall be granted for any brand or model of water flowmeter, except as set forth in subsection (c).

(c) A limited variance shall be granted by the chief engineer for a period of up to three years to allow that specific brand and model of a water flowmeter to be tested in the field and to serve as a water flowmeter required by the chief engineer if all of the following conditions are met:

(1) The manufacturer demonstrates to the chief engineer that a particular model and brand of water flowmeter utilizes new technology, does not meet one or more of the requirements of K.A.R. 5-1-4, and is likely to be as reliable, or more reliable, than water flowmeters currently meeting all of the requirements of K.A.R. 5-1-4.

(2) The manufacturer agrees to install not more than 50, nor less than 10, water flowmeters to test the new technology.

(3) The manufacturer agrees to collect data for at least one year that is sufficient to allow the chief engineer to determine whether that brand and model of water flowmeter meets the reliability and accuracy specifications of K.A.R. 5-1-4. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-1-6. Water flowmeter installation specifications.** (a) Each water flowmeter required by the chief engineer to be installed or required pursuant to a regulation adopted by the chief engineer, on or after the effective date of these regulations shall meet the following minimum water flowmeter installation specifications:

(1) Each water flowmeter shall be installed in a manner that meets the following criteria:

(A) Meets or exceeds the instructions of the manufacturer; and

(B) except for a multijet and a positive displacement water flowmeter, is installed so that there are at least five pipe diameters of straight pipe upstream and at least two pipe diameters of straight pipe downstream of the sensor portion of the water flowmeter, regardless of the manufacturer's installation specifications.

(2) Each water flowmeter shall be sized and installed so that full pipe flow will be maintained through the water flowmeter and so that water velocity in the measuring chamber will be within the normal operating range of the water flowmeter at all times while water is being diverted.

(3) If a water flowmeter is located downstream of a water storage device, there shall be at least seven diameters of straight pipe upstream of the water storage device where a water flowmeter may be installed for a field test by the chief engineer.

(4) Each water flowmeter shall be installed at a location that will measure all water diverted from the source of supply.

(b) Each water flowmeter that is required by the chief engineer to be installed, or that was required to be installed as a condition of either an approval of application or an order of the chief engineer, or pursuant to a regulation adopted by the chief engineer, before the effective date of these regulations, shall meet the following minimum installation specifications:

(1) Each water flowmeter shall be installed in a manner that meets or exceeds the instructions of the manufacturer and, except for a multijet and a positive displacement water flowmeter, shall be installed so that there are at least five pipe diameters of straight pipe upstream and at least two pipe diameters of straight pipe downstream of the sensor portion of the water flowmeter, regardless of the manufacturer's installation specifications.

(2) Each water flowmeter shall be sized and installed so that full pipe flow will be maintained through the water flowmeter and so that water velocity in the measuring chamber will be within the normal operating range of the water flowmeter at all times while the water is being diverted.

(3) Each water flowmeter shall be installed at a location that will measure all water diverted from the source of supply. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-1-7. Requirement to install a water flowmeter or other suitable water-measuring device.** (a) All non-domestic, nontemporary wells and pump sites operated under the authority of an approval of application issued on or after the effective date of this regulation shall be equipped with a water flowmeter that meets or exceeds the specifications of the chief engineer effective at the time the application is approved by the chief engineer.

(b)(1) All nondomestic, nontemporary gravity diversions of water, including irrigation ditches, operating under the authority of an approval of application issued on or after the effective date of this regulation shall be equipped with a continuous recording gauge, or other suitable water-measuring device located at or near the headgate. Before installation, the water right owner shall

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submit plans and specifications for the proposed gauge, or other suitable water-measuring device, to the chief engineer and shall receive approval in writing from the chief engineer before installing the gauge or other suitable water-measuring device.

(2) The gauge or other suitable water-measuring device shall meet the following criteria:

(A) Register not less than 94% and not more than 106% of the actual volume of water passing the device under normal operating conditions when compared to a field test made by, or approved by, the chief engineer;

(B) be installed in accordance with the installation requirements of the chief engineer; and

(C) be maintained in a satisfactory operating condition any time water can reasonably be expected to be diverted.

(c) An approval of a nondomestic application for change in place of use, the point of diversion, or the use made of the water, or any combination of these, shall require the owner of the well or pump site to install a water flowmeter on all points of diversion authorized by the water right or approval of application, unless any of the following conditions is met:

(1) The applicant demonstrates to the chief engineer that the application to change the place of use meets the requirements of K.A.R. 5-5-11(e).

(2) The applicant demonstrates to the chief engineer both of the following:

(A) Installation of a water flowmeter meeting these specifications is not physically feasible.

(B) The applicant agrees to implement a reasonable, objective alternative of measuring the quantity of water diverted that is acceptable to the chief engineer.

(3) The water is being diverted from multiple points of diversion authorized by one water right that does not limit the maximum annual quantity and maximum rate of diversion by point of diversion, and all of the water flows to a common point where a water flowmeter meeting the requirements of K.A.R. 5-1-4 and K.A.R. 5-1-6 measures all of the water pumped from all of the points of diversion authorized by that water right.

(4) An application for change in point of diversion only is filed to change the point of diversion of only one well, when more than one well is authorized by the approval of application or water right that authorizes the well for which a change in point of diversion is sought. In this case, only the well that is being relocated shall be required to have a water flowmeter.

(d) Except as set forth in subsection (c), if an approval of an application for change requires the installation of a water flowmeter, the requirement to install a water flowmeter shall also be placed on all other water rights and approvals authorizing diversion of water from the same point of diversion.

(e) If any water right or approval of application has a condition requiring development, adoption, and implementation of a water conservation plan pursuant to K.S.A. 82a-733 and amendments thereto, a water flowmeter or suitable water-measuring device shall be installed on each authorized point of diversion in compliance with these regulations.

(f) The owner of a water right, including a domestic water right, or an approval of application shall also be

required by the chief engineer to install a water flowmeter or other suitable water-measurement device that complies with these regulations on each authorized point of diversion if it is necessary for the chief engineer to effectively administer water rights to prevent impairment, to protect minimum desirable stream flows, to conserve water, or to otherwise carry out the duties of the chief engineer as set forth in the Kansas water appropriation act, K.S.A. 82a-701 et seq., and amendments thereto.

(g) Except as set forth in subsection (c), if a water flowmeter is required by the chief engineer, each point of diversion authorized by the approval of application or water right shall be required to have a separate meter. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-1-8. Water flowmeter maintenance.** If a water right owner is required by the chief engineer to install a water flowmeter, the water right owner shall maintain the water flowmeter in compliance, as defined by K.A.R. 5-1-1, whenever diversion of water can reasonably be expected to occur. If at any time the required water flowmeter fails to function properly, the owner shall promptly initiate action to repair or replace the meter, or to correct any problems with the installation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-1-9. Criteria to determine when a water flowmeter is out of compliance.** A water flowmeter shall be considered to be out of compliance if any of the following criteria is met:

(a) The water flowmeter registers less than 94 percent or more than 106 percent of the actual volume of flow passing the water flowmeter. If necessary, this determination may be made by a field test conducted by, or approved by, the chief engineer.

(b) The seal placed on the totalizer by the manufacturer or the manufacturer's authorized representative has been broken, or the totalizer value has been reset or altered without the authorization of the manufacturer, an authorized representative of the manufacturer, or the chief engineer.

(c) A seal placed on the water flowmeter or totalizer by the chief engineer has been broken.

(d) The water flowmeter register is not clearly visible or is unreadable for any reason.

(e) There is not full pipe flow through the water flowmeter.

(f) Flow-straightening vanes have not been properly designed, manufactured, and installed.

(g) The water flowmeter is not calibrated for the nominal size of the pipe in which it is installed.

(h) The water flowmeter is not installed in accordance with the manufacturer's installation specifications. However, five diameters of straight pipe above the water flowmeter sensor and two diameters below the water flowmeter sensor shall be the minimum spacing, regardless of the manufacturer's installation specifications. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-1-10. Duties of water right owner when a water flowmeter is out of compliance.**

(a) A water right owner, or the water right owner's authorized designee, shall promptly notify the chief engineer if any water flowmeter required by the chief engineer is out of compliance.

(b) Within 30 days after the date on which the out-of-compliance water flowmeter has been repaired or replaced, the water right owner or the water right owner's authorized designee shall notify the chief engineer in writing of the following information:

(1) The date the water flowmeter became out of compliance;

(2) the water flowmeter reading at the time the water flowmeter became out of compliance;

(3) if the water flowmeter was replaced, the following information:

(A) The brand, model, size, and serial number of the new water flowmeter;

(B) the units in which the new water flowmeter reads;

(C) the reading of the new water flowmeter at the time of installation; and

(D) the location of the new water flowmeter on the diversion works or delivery system;

(4) if the water flowmeter was repaired, the water flowmeter reading immediately before the repair and the reading of the water flowmeter at the time it was reinstalled or the repair was completed on site;

(5) the date the repair or replacement was completed; and

(6) the amount of water diverted while the water flowmeter was out of compliance.

(c) If the water right owner does not maintain a record of diversions of water that is sufficient to reasonably estimate the quantity of water diverted while the water flowmeter was out of compliance, it shall be assumed, for the sole purposes of enforcement of the terms, conditions, and limitations of the approval of application or water right, and priority administration of water rights among water users, that the diversion works were operated continuously at the tested rate of diversion during the entire period the water flowmeter was out of compliance. If the rate of diversion has not been tested by the chief engineer, then it shall be assumed that the diversion works were operated continuously at the authorized rate of diversion during the entire time the water flowmeter was out of compliance. The assumption set forth in this subsection shall not apply to the determination of the annual quantity of water diverted for the purpose of perfecting a water right.

(d) If the water right owner is required by the chief engineer to repair or replace an inoperable water flowmeter, it shall be the duty of the water right owner to ensure that the repaired or replaced water flowmeter is in compliance with K.A.R. 5-1-4 and K.A.R. 5-1-6. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-1-11. Water flowmeter testing by a nonagency person.** If a water right owner desires to have a water flowmeter flow rate test done by a nonagency person for any reason, a person may be approved by the chief engineer to perform a water flowmeter flow rate test if the person demonstrates to the chief engineer both of the following:

(a) The person has the training, skills, and experience necessary to properly conduct the test.

(b) The person has the appropriate water flowmeter to do the test, and the water flowmeter has been tested for accuracy with water flowmeter test equipment that has been found to be accurate using standards traceable to the national institute of standards and technology (NIST). The equipment shall have been tested and found to be accurate within 12 months of performing the water flowmeter test. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-1-12. List of water flowmeters certified by the manufacturer to meet the specifications of the chief engineer.** (a) A list of all makes and models of water flowmeters that have been certified by the water flowmeter manufacturer to meet the specifications of the chief engineer shall be maintained by the chief engineer. This list shall be made available by the chief engineer to the public upon request.

(b) To have a water flowmeter placed on the list, the manufacturer shall supply to the chief engineer the following information for each water flowmeter model:

(1) The water flowmeter manufacturer's name, address, contact person's name, and telephone number;

(2) the water flowmeter model name or number;

(3) proof that a random sample of water flowmeters of each model has been tested in accordance with the requirements of K.A.R. 5-1-4(a);

(4) the last date that the water flowmeter test equipment was tested and found to be accurate by standards traceable to the national institute of standards and technology (NIST);

(5) verification that the water flowmeter is designed and constructed so that accuracy will be maintained over the life of the water flowmeter;

(6) verification that the water flowmeter serial number and direction of flow are clearly indicated on the water flowmeter;

(7) verification that the register is weatherproof;

(8) verification that the totalizer will read only in acre-feet, acre-inches, or gallons;

(9) the number of active digits in the totalizer;

(10) verification that the memory is nonvolatile;

(11) verification that the totalizer cannot be reset without breaking the manufacturer's seal or obtaining the authorization of the manufacturer, an authorized representative of the manufacturer, or the chief engineer;

(12) verification that the water flowmeter and register are constructed in such a manner that they can be sealed by the chief engineer;

(13) a description of the measuring chamber provided for each water flowmeter model;

(14) specifications of the flow-straightening vanes installed in the measuring chamber;

(15) the spacing recommendations for each water flowmeter model in terms of pipe diameters of straight pipe required upstream and downstream of the water flowmeter sensor; and

(16) the normal operating range of the water flowmeter.

(c) A brand or model of a water flowmeter shall be removed from the list of water flowmeters specified in

(continued)

subsection (a) of this regulation if it has been demonstrated to the chief engineer that the brand or model of water flowmeter does not reliably and consistently meet the accuracy standards of K.A.R. 5-1-9(a). (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

### Article 2.—VESTED RIGHTS

**5-2-3. Battery of wells.** Except as set forth in subsection (c), if a permit to appropriate water did not authorize a battery of wells, as defined in K.A.R. 5-1-1, before the effective date of this regulation, an application for change filed pursuant to K.S.A. 82a-708b, and amendments thereto, to add one or more wells to the authorized well to create a battery of wells shall not be approved unless all of the following criteria in either subsection (a) or (b) are met at the time that the application for change is filed:

(a) (1) The time to construct the diversion works has not expired.

(2) The proposed battery will meet the definition of a battery of wells as defined in K.A.R. 5-1-1.

(b) (1) The time to construct the diversion works has expired.

(2) A new application to appropriate water filed to appropriate water at the geocenter of the proposed battery of wells would meet the safe yield, allowable appropriation, or similar type of regulation, for a well filed at that location.

(3) The proposed battery of wells meets the definition of a battery of wells as defined in K.A.R. 5-1-1.

(c) Subsections (a) and (b) shall not apply to an application to change the point of diversion filed to add one or more wells to the authorized well to create a battery of wells if the proposed battery of wells is located within the boundary of a groundwater management district for which the chief engineer has adopted a specific regulation applicable to batteries of wells within that district. (Authorized by and implementing K.S.A. 82a-706a; effective Sept. 22, 2000.)

### Article 3.—APPROPRIATION RIGHTS

**5-3-1a. Application for a basin term permit.** An application for a basin term permit shall be filed on a form prescribed by the chief engineer. The term requested shall not exceed one year. A basin term permit may be extended in one-year increments if all of the following conditions are met:

(a) The request for extension is filed before the end of the current term in a manner acceptable to the chief engineer.

(b) The applicant has complied with the terms, conditions, and limitations of the basin term permit during the previous calendar year.

(c) Granting the requested extension will not cause impairment of each approval of application and water right with an earlier priority.

(d) The applicant shows good cause why the extension should be granted.

The total time authorized by a basin term permit shall not exceed five calendar years. Basin term permits shall

not be transferable. At the end of the specified term, the permit shall be dismissed, and any priority it may have had shall be forfeited. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-3-4b. Deadlines for return of documents.** (a) If the chief engineer allows a person a specific number of days to return or submit a document or other information, the time period shall be computed as prescribed in K.S.A. 60-206(a) and (e), and amendments thereto.

(b) If a person is given until a specific date to return or submit a document or other information, the document or information shall be deemed to be timely filed if it is received in the office of the chief engineer no later than the third working day following the specified date. Working days shall be all days except Saturdays, Sundays, and legal holidays designated by the United States congress, the Kansas legislature, or the governor of Kansas. Half holidays shall be counted as working days.

(c) Any document that is postmarked by the United States postal service with a legible date on or before the deadline set by the division for returning the document shall be accepted by the division as being timely filed, regardless of when it is received. In the case of United States registered mail, the date of registration shall be deemed to be the postmark date. The term "United States postal service," as used in this subsection, shall include a private delivery service available to the general public that routinely records, in the regular course of business, the date the item is given to the service for delivery. The date the item is given to the service for delivery shall be deemed to be the postmark date. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-710; effective May 1, 1980; amended Sept. 22, 2000.)

**5-3-4c. Retaining new applications.** (a) A new application to appropriate water for beneficial use shall be held by the chief engineer in accordance with the terms of subsection (b) if it meets both of the following conditions:

(1) The application is in proper form and has been completely processed, but cannot be approved because it does not currently comply with one or more statutory or regulatory requirements, including spacing, safe yield, or allowable appropriation regulations.

(2) There is good cause to believe that, if the application were held for a reasonable period of time, it may be approvable in the future because of actions currently pending on other permits and water rights in the area, including issuance of certificates, dismissals of applications, and declarations of abandonment.

(b) Upon demonstration by the applicant to the chief engineer that the application apparently could be approved within a reasonable time, not to exceed 365 days from the date the request to retain the application was received by the chief engineer, if the pending actions take place, the applicant's pending new application may be held by the chief engineer for a period not to exceed 365 days.

(c) If the application still cannot be approved at the end of this time, the application shall be dismissed by the chief engineer and the priority of the application forfeited. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-

705, K.S.A. 82a-710, and K.S.A. 82a-721; effective Sept. 22, 2000.)

**5-3-4d. Stratigraphic log requirements.** (a) Except as set forth in subsection (b), each applicant who files either of the following applications shall submit to the chief engineer a stratigraphic log for a test hole located within 300 feet of the proposed new or replacement well:

(1) A new application to appropriate groundwater, except for domestic use, a temporary permit, or a term permit for fewer than five years; or

(2) an application to change the point of diversion to relocate a well.

This stratigraphic log shall contain geologic and any other information sufficient to allow the chief engineer to understand the lithology and to classify the groundwater source formation or formations from which the proposed well will be withdrawing water.

(b) (1) If an application is filed for a new well, the stratigraphic log shall not be required if the chief engineer has sufficient information to understand the lithology and determine the groundwater source formation or formations from which the proposed well will be withdrawing water.

(2) If an application is filed for a change in point of diversion, the stratigraphic log shall not be required if the chief engineer has sufficient information to understand the lithology and determine the groundwater source formation or formations from which the original well withdrew water and the replacement well will withdraw water.

(c) Each applicant to construct a new well or to change the point of diversion to a newly constructed well shall submit to the chief engineer a copy of the stratigraphic log of the completed well as required by the Kansas department of health and environment under the authority of K.S.A. 82a-1212 and amendments thereto. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-709(i), K.S.A. 82a-710; effective Sept. 22, 2000.)

**5-3-4e. Groundwater source formation codes.** The Kansas department of agriculture, division of water resources' document titled "groundwater source formation codes," dated November 3, 1999, is hereby adopted by reference for the sole purpose of determining the groundwater source formation codes used by the chief engineer in administering the provisions of the Kansas water appropriation act. The groundwater source formation codes used by the chief engineer shall be the codes set forth in the document described above. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-709; effective Sept. 22, 2000.)

**5-3-5d. Persons required to install a water level measurement tube.** Every well with an authorized maximum rate of diversion of 100 or more gallons per minute drilled after the effective date of this regulation, except those wells authorized under a temporary permit, a domestic right, or a term permit for five or fewer years, shall have a tube installed in accordance with specifications adopted by the chief engineer. This tube shall be suitable for making water level measurements and shall be maintained in a satisfactory condition. (Authorized by K.S.A.

82a-706a; implementing K.S.A. 82a-706c; effective May 1, 1980; amended Sept. 22, 2000.)

**5-3-5e. Meters and other water-measuring devices; reporting readings; maintenance, and replacement.** (a) For the purpose of this regulation, "meter" shall mean a water flowmeter or other water-measuring device.

(b) Whenever the installation of a meter is required by the chief engineer as a condition of a water right or permit, by written order of the chief engineer, or by requirement of a groundwater management district, the water right owner shall report all information required on the form prescribed by the chief engineer pursuant to K.S.A. 82a-732, and amendments thereto, including the following:

(1) The beginning and ending readings of the meter each calendar year;

(2) the units in which the meter registers; and

(3) the quantity of water diverted during the calendar year in the same units in which the meter registers.

(c) Whenever a totalizing hour meter has been required by the chief engineer or a groundwater management district, the water right owner shall report all information required on the form prescribed by the chief engineer pursuant to K.S.A. 82a-732, and amendments thereto, including the following:

(1) The beginning and ending readings of the meter each calendar year;

(2) the units in which the meter registers; and

(3) the rate of diversion at which water is pumped in gallons per minute. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-732; effective May 31, 1994; amended Sept. 22, 2000.)

**5-3-5g. Designation of a water use correspondent.** If the owner or owners of an approval of application or a water right desire to delegate the authority to receive and submit the annual water use reports as prescribed by K.S.A. 82a-732, and amendments thereto, to another person, an owner of the approval of application or the water right shall sign and submit a form prescribed by the chief engineer designating the person responsible to receive and submit the required annual water use report. However, the water right owner or owners shall remain, in all cases, the person or persons legally responsible for filing the water use reports required by K.S.A. 82a-732, and amendments thereto. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-732; effective Sept. 22, 2000.)

**5-3-5h. Water conservation plans.** Each water conservation plan shall be submitted on a form prescribed by the chief engineer. The plan shall also contain the name, address, and telephone number of the designer of the water conservation plan. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-733; effective Sept. 22, 2000.)

**5-3-5i. Time limit to implement a water conservation plan.** (a) The time to fully implement the water conservation plan shall be limited by the chief engineer to a reasonable specific date, which may be extended for good cause shown by the applicant.

(b) A municipal or industrial water user shall be given at least one full calendar year after the conservation plan

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is approved by the chief engineer to fully implement the water conservation plan.

(c) A user of water for irrigation shall be given at least one full growing season after the conservation plan is approved by the chief engineer to fully implement the approved water conservation plan. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-733; effective Sept. 22, 2000.)

**5-3-5j. Maintenance of a water conservation plan.** Once implemented, the applicant shall continue to satisfactorily maintain each component of the water conservation plan. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-733; effective Sept. 22, 2000.)

**5-3-5k. Review of a water conservation plan.** The right to review the water conservation plan to determine if it is consistent with current guidelines adopted and maintained pursuant to K.S.A. 74-2608, and amendments thereto, shall be reserved by the chief engineer. If the review determines that the water conservation plan is materially different from those guidelines, then the owner of the water right or approval of application may be ordered by the chief engineer to amend the water conservation plan to make it consistent with the current guidelines for conservation plans and practices adopted and maintained pursuant to K.S.A. 74-2608, and amendments thereto. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-733; effective Sept. 22, 2000.)

**5-3-5l. Changes in a water conservation plan.** If a person required to implement a water conservation plan desires to make a material change in the plan, that person shall submit a request to make the change to the chief engineer on a form prescribed by the chief engineer. Any material change in an approved water conservation plan shall require the prior written approval of the chief engineer. Any proposed change in a water conservation plan shall be subject to the same type of review as that required for the original water conservation plan. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-733; effective Sept. 22, 2000.)

**5-3-5m. Limited power of attorney.** If all of the owners of an approval of application or water right desire to authorize any other person to take any type, or types, of official action on behalf of the approval of application or water right, all of the owners of the approval of application or water right shall meet the following requirements:

(a) A limited power of attorney shall be submitted to the chief engineer.

(b) The limited power of attorney shall be signed and acknowledged by all of the owners of the approval of application or water right and filed pursuant to the provisions of K.S.A. 58-601, and amendments thereto. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706a and K.S.A. 82a-701 et seq.; effective Sept. 22, 2000.)

**5-3-5n. Authorized place of use.** (a) Except as set forth in subsection (b), each approval of application, or an approval of an application for change filed in accordance with K.S.A. 82a-708b, and amendments thereto, shall describe the authorized place of use as either of the following:

(1) Land not authorized for beneficial use of water by any other water right or approval of application; or

(2) exactly the same land authorized for beneficial use of water by one or more prior approvals of applications or water rights.

(b) The requirement in subsection (a) shall not apply to applications that propose to partially overlap the authorized place of use with any of the following:

(1) A municipality;

(2) an irrigation district;

(3) an irrigation ditch company;

(4) a rural water district;

(5) another authorized place of use that cannot all be physically served by all of the water rights and approvals of applications;

(6) an authorized place of use that is owned by different landowners who do not operate together; or

(7) the owner or owners of the water rights and approvals of applications demonstrate both of the following to the chief engineer:

(A) It is not practical or desirable to have a complete overlap.

(B) Allowing an incomplete overlap of authorized places of use will not prejudicially and unreasonably affect the public interest. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-709; effective Sept. 22, 2000.)

**5-3-11. Availability of water for appropriation - safe yield; unconfined groundwater aquifers.** (a) Each application to appropriate groundwater from an unconfined aquifer shall be processed in accordance with this regulation.

(b) To determine the safe yield available for appropriation from an unconfined aquifer at a specific location, the following procedure shall be used by the chief engineer:

(1) The amount of calculated recharge occurring within the area of consideration shall be determined by the chief engineer.

(2) That amount shall be multiplied by the percent of calculated recharge determined by the chief engineer to be available nondomestic groundwater and surface water for appropriation.

(3) The total quantity of water authorized and requested in the same area of consideration shall be subtracted from the number derived from paragraph (b)(2) above. If a water right or permit authorizes more than one point of diversion and not all of them are within the area of consideration, the authorized quantity shall be divided equally between or among all the points of diversion, unless information is available to more accurately distribute the authorized quantity between or among the multiple points of diversion.

(c) (1) If the quantity of water remaining is sufficient to satisfy the proposed application, then the safe yield criteria shall be deemed to have been met, unless there are other relevant factors that need to be taken into account in order to protect the public interest. The application shall then be processed according to other criteria in effect in that area.

(2) If there is sufficient water available to reasonably satisfy part of the request, then the application shall be



approved for the quantity available if the remaining quantity is reasonable for the proposed use and the application meets the other applicable criteria in that area.

(3) If no water is available to satisfy the proposed application, then the application shall be denied by the chief engineer.

(d)(1) In making a safe yield calculation, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them:

(A) "Circle" means a circle with a two-mile radius, with the proposed point of diversion as the center.

(B) "Area of consideration" means the portion of the two-mile circle located within the limits of the unconfined aquifer expressed in acres, including any area of the circle located within the boundaries of a groundwater management district. The area of consideration shall not include any portion of the circle located outside the state of Kansas.

(C) "Total quantity of water" means the total combined authorized annual quantities under all groundwater rights and approvals of applications, and requested by pending applications with a senior priority in that unconfined aquifer except for domestic use, temporary permits, and term permits for five or fewer years with priority dates senior to the proposed application and with points of diversion located within the area of consideration.

(D) "Calculated recharge" means that portion of the average annual precipitation that becomes recharge to the unconfined aquifer, calculated using the data shown on water resources investigations report 87-4230, plate no. 4, dated 1987, prepared by the United States geological survey, hereby adopted by reference, interpolated to the nearest tenth of an inch, unless better or more specific recharge data for the area of consideration, basin, or aquifer is supplied by the applicant or is already available to the chief engineer.

(2) The calculated recharge in the Kansas river alluvium shall be determined by taking 25% of the average annual rainfall in the area of consideration as taken from figure 2, United States geological survey water resources investigation report 92-4137, dated 1993, hereby adopted by reference, interpolated to the nearest 0.1 of an inch.

(3) For each application to appropriate groundwater from an unconfined aquifer filed on or after the effective date of this regulation, the percentages of calculated recharge that shall be considered to be available for appropriation shall be determined using the following table:

Percent of Calculated Recharge Available for Appropriation	River Basin
(A) 100% plus the recharge from the Missouri River available to the well, as calculated by a Jenkins or similar stream-depletion technique.	Missouri
(B) 100%	Arkansas River below Hutchinson* Big Blue River ** Black Vermillion River ** Delaware River ** Little Arkansas River below GMD No. 2 * Little Blue River ** Little Osage River **

Percent of Calculated Recharge Available for Appropriation

Percent of Calculated Recharge Available for Appropriation	River Basin
(C) 75%	Lower Republican River Basin outside the effective alluvium and the Belleville formation that does not contribute significant baseflow to a stream** Marais des Cygnes River ** Mill Creek ** Marmaton River ** Nemaha River ** Pottawatomie Creek ** Smoky Hill River below its confluence with the Saline River ** Spring River * Stranger Creek ** Sugar Creek ** Vermillion Creek ** Wakarusa River ** Walnut River * Any hydrologic unit that does not contribute significant baseflow to a stream. Any hydrologic units in the following river basins that contribute significant baseflow to a stream: Arkansas River above Hutchinson* Caney River * Cottonwood River * Cow Creek outside the boundaries of GMD No. 2 and GMD No. 5* Elk River * Fall River * Kansas River ** Little Arkansas River above GMD No. 2 * Lower Republican River Basin outside the effective alluvium and the Belleville formation that contributes significant baseflow to a stream. ** Neosho River * Ninnescah River * Saline River ** Salt Creek ** Smoky Hill above its confluence with the Saline River ** Solomon River ** South Fork Ninnescah River (except Smoots Creek) * Upper Republican Basin outside areas closed to new appropriations as set forth in paragraph (d)(8) of this regulation. ** Verdigris River * Any other basin in Kansas not specifically identified Any hydrologic units in the following river basins that contribute significant baseflow to a stream: Bluff Creek-Chikaskia River * Bluff Creek-Cimarron River * Chikaskia River * Cimarron River outside GMD No. 3 Medicine Lodge River * North Fork Ninnescah River * Rattlesnake Creek * Salt Fork Arkansas River * Sandy Creek * South Fork Ninnescah River (Smoots Creek only) *
(D) 50%	* Located in Arkansas River Basin ** Located in Kansas River Basin

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(4) The total quantity of water and the percent of calculated recharge originally available to be appropriated for nondomestic groundwater and surface water use in all or part of the following basins, subbasins, stream reaches, and other hydrologic units identified in elec-

tronic data file unitbsn.e00, dated July 30, 1997, prepared by the division of water resources, Kansas department of agriculture and hereby adopted by reference for the purpose of defining the boundaries of the hydrologic units, shall be determined using the following table:

South-Central Kansas Designated Unit Areas

Map Label	Effective Date	Area (acres)	Recharge Rate (in/yr)	Recharge Quantity (Ac-ft/yr)	Percentage of Recharge to Appropriate	Original Quantities Available (Ac-ft/yr)	General Location (Twp.-Range)	Abbreviation for Portion of Basin or Basins
1	November 28, 1994	32204	1.8	4831	100%	4831	29-12w	Chikaskia
2	November 28, 1994	41426	1.8	6214	100%	6214	30-11w	Chikaskia
3	November 28, 1994	55524	1.8	8329	50%	4164	29-10w	Chikaskia
4	November 28, 1994	43603	1.8	6540	50%	3270	30-10w	Chikaskia
5	November 28, 1994	46828	2.0	7805	50%	3902	31-05w	Chikaskia
6	November 28, 1994	46895	2.5	9770	50%	4885	33-03w	Chikaskia
7	November 28, 1994	37378	3.0	9344	50%	4672	34-02w	Chikaskia
8	November 28, 1994	42210	3.0	10553	50%	5276	33-01w	Chikaskia
9	November 28, 1994	15145	2.0	2524	100%	2524	30-08w	Chikaskia
10	November 28, 1994	6855	2.0	1143	100%	1143	31-06w	Chikaskia
11	November 28, 1994	2824	2.0	471	100%	471	31-06w	Chikaskia
12	November 28, 1994	8548	2.0	1425	100%	1425	31-05w	Chikaskia
13	November 28, 1994	12165	2.0	2027	50%	1014	31-07w	Chikaskia
14	November 28, 1994	27213	2.0	4535	50%	2268	32-05w	Chikaskia
15	November 28, 1994	21101	1.5	2638	50%	1319	31-15w	Medicine Lodge
16	November 28, 1994	7489	1.5	936	50%	468	32-11w	Medicine Lodge
17	November 28, 1994	20516	1.5	2564	50%	1282	33-11w	Medicine Lodge
18	November 28, 1994	34426	1.5	4303	50%	2152	29-19w	Rattlesnake
19	November 28, 1994	25566	1.5	3196	50%	1598	29-18w	Medicine Lodge
20	November 28, 1994	56730	1.8	8509	100%	8509	29-14w	Medicine Lodge
21	November 28, 1994	41800	1.8	6270	50%	3135	30-12w	Medicine Lodge
22	November 28, 1994	15825	1.2	1582	50%	791	30-17w	Medicine Lodge
23	November 28, 1994	59864	1.5	7483	50%	3742	29-16w	Medicine Lodge
24	November 28, 1994	37658	1.5	4707	100%	4707	29-15w	Medicine Lodge
25	November 28, 1994	102144	1.9	16173	75%	12130	28-09w	SF Ninnescah
26	November 28, 1994	10638	2.0	1773	75%	1330	28-07w	SF Ninnescah
27*	Revision	84047	2.0	14008	50%	7004	26-07w	SF Ninnescah
28	November 28, 1994	5196	2.2	953	75%	714	28-04w	SF Ninnescah
29	November 28, 1994	73816	1.9	11688	100%	11688	28-07w	Chik/SFNin/Nin
30	November 28, 1994	38651	2.0	6442	100%	6442	30-05w	Chik/SFNin/Nin/Ark
31	November 28, 1994	5572	2.3	1068	100%	1068	31-04w	Chik/Ark
32	November 28, 1994	21937	2.0	3656	100%	3656	27-07w	SF Ninnescah
33	November 28, 1994	40646	2.5	8468	75%	6351	23-08w	Arkansas
34	November 28, 1994	41974	2.3	8045	75%	6034	24-08w	NF Ninnescah
35	November 28, 1994	3917	2.0	653	75%	490	26-08w	NF Ninnescah
36	November 28, 1994	12106	2.0	2018	75%	1513	27-10w	NF Ninnescah
37	November 28, 1994	8135	2.0	1356	75%	1017	26-08w	NF Ninnescah
38*	Revision	34550	1.2	3455	50%	1728	32-20w	Bluff Creek (Cim)
39	November 28, 1994	21875	1.2	2188	50%	1094	33-20w	Bluff Creek (Cim)
40	November 28, 1994	11466	1.2	1147	50%	573	33-20w	Bluff Creek (Cim)
41	November 28, 1994	8565	1.6	1142	50%	571	34-17w	Salt Fork Arkansas
42	November 28, 1994	3746	1.6	499	50%	250	33-15w	Salt Fork Arkansas
43	November 28, 1994	9763	1.6	1302	50%	651	34-15w	Salt Fork Arkansas
44	November 28, 1994	33060	1.8	4959	100%	4959	31-10w	Sandy Cr
45	November 28, 1994	3922	1.8	588	100%	588	33-09w	Sandy Cr
46	November 28, 1994	26959	1.8	4044	50%	2022	32-10w	Sandy Cr
47	November 28, 1994	41296	1.8	6194	50%	3097	34-09w	Sandy Cr
48	November 28, 1994	36364	1.9	5758	50%	2879	31-08w	Bluff Creek (Chik)
49	November 28, 1994	45511	2.0	7585	50%	3793	32-07w	Bluff Creek (Chik)
50	November 28, 1994	23546	2.3	4513	50%	2257	34-06w	Bluff Creek (Chik)
51	November 28, 1994	25608	2.7	5762	50%	2881	35-03w	Bluff Creek (Chik)
52	November 28, 1994	4460	1.9	706	100%	706	32-09w	Sandy Cr
53	November 28, 1994	17083	2.0	2847	100%	2847	33-08w	Sandy Cr/Bluf (Chik)
54	November 28, 1994	3845	2.0	641	50%	320	32-08w	Sandy Cr/Bluf (Chik)
55	July 5, 1996	3582	1.2	358	50%	179	35-18w	Cimarron
56	July 5, 1996	10967	1.2	1097	50%	548	35-19w	Cimarron
57	July 5, 1996	37387	1.2	3739	50%	1869	34-20w	Cimarron
58	July 5, 1996	3379	1.3	366	50%	183	33-21w	Cimarron
59	July 5, 1996	5885	1.3	638	50%	319	35-22w	Cimarron
60	July 5, 1996	14854	1.3	1609	50%	805	33-22w	Cimarron
61	July 5, 1996	34080	1.3	3692	50%	1846	34-22w	Cimarron
62	July 5, 1996	25419	1.3	2754	50%	1377	31-17w	Salt Fork
63	July 5, 1996	29813	1.3	3230	15%	484	32-17w	Salt Fork

Map Label	Effective Date	Area (acres)	Recharge Rate (in/yr)	Recharge Quantity (Ac-ft/yr)	Percentage of Recharge to Appropriate	Original Quantities Available (Ac-ft/yr)	General Location (Twp.-Range)	Abbreviation for Portion of Basin or Basins
64	July 5, 1996	90035	1.3	9754	50%	4877	31-18w	Salt Fork
65	July 5, 1996	35931	1.3	3893	50%	1946	31-19w	Bluff Creek
66	July 5, 1996	100983	1.3	10940	50%	5470	30-20w	Bluff-Rattlesnake
67	July 5, 1996	111132	1.2	11113	50%	5557	30-24w	Bluff-Crooked
68	July 5, 1996	12188	1.2	1219	50%	609	31-23w	Cimarron
69	July 5, 1996	5518	1.2	552	50%	276	31-24w	Cimarron
70	July 5, 1996	32689	1.2	3269	50%	1634	32-25w	Cimarron
71	July 5, 1996	94734	1.3	10263	50%	5131	32-26w	Cim-Crooked
72	July 5, 1996	44833	1.3	4857	50%	2428	33-27w	Cim-Crooked
73	July 5, 1996	50088	1.3	5426	50%	2713	34-27w	Cim-Crooked
74	July 5, 1996	25210	1.3	2731	50%	1366	35-27w	Cim-Crooked
75	July 5, 1996	103816	1.3	11247	50%	5623	34-24w	Cim-Crooked
76	July 5, 1996	23296	1.2	2330	50%	1165	30-22w	Bluff-Rattlesnake
77	July 5, 1996	27666	1.2	2767	50%	1383	32-15w	Salt-Medicine
78	July 5, 1996	5261	1.2	526	100%	526	35-13w	Salt Fork
79	July 5, 1996	8249	1.8	1237	50%	619	31-12w	Medicine

\* Revision is effective the date of this regulation.

(5) The following hydrologic units, which have been determined by the chief engineer to be fully appropriated based on the safe yield criteria, shall be closed to further new surface water and groundwater appropriations except for domestic use, temporary permits, and term permits for five years or less:

(A) Big Creek, its tributaries and their valley alluviums, and any other aquifer that has a substantial hydraulic connection to an alluvium;

(B) Beaver Creek and Little Beaver Creek, their tributaries and their alluviums, and any other aquifer that has a substantial hydraulic connection to an alluvium;

(C) North Fork Solomon River, its tributaries and their alluviums, and any other aquifer that has a substantial hydraulic connection to an alluvium;

(D) Prairie Dog Creek, its tributaries and their alluviums, and any other aquifer that has a substantial hydraulic connection to an alluvium;

(E) Sappa Creek, its tributaries and their alluviums, and any other aquifer that has a substantial hydraulic connection to an alluvium;

(F) South Fork of the Solomon River, its tributaries and their alluviums above Glen Elder Dam, and any other aquifer that has a substantial hydraulic connection to an alluvium; and

(G) Walnut Creek, its tributaries and their alluviums, and other hydraulically connected aquifers outside the boundaries of the intensive groundwater use control area created by order of the chief engineer shall be those set forth below:

28 through 33	18S	23W	Barton
4 through 10 and 14 through 36	18S	14W	Barton
1 through 36	18S	25W	Barton
3 through 11 and 14 through 23	29S	13W	Barton
1 through 6, 9 through 15, and 22 through 24	29S	14W	Barton
1	19S	15W	Barton
31 through 35	17S	16W	Rush
19 through 36	17S	17W	Rush
19 through 36	17S	18W	Rush
23 through 26 and 31 through 36	17S	19W	Rush
35 and 36	17S	20W	Rush

Section	Township	Range	County
1 through 36	18S	16W	Rush
1 through 36	18S	17W	Rush
1 through 36	18S	18W	Rush
1 through 36	18S	19W	Rush
1 through 36	18S	20W	Rush
3 through 6	19S	16W	Rush
1 through 6	19S	17W	Rush
1, 2, 11, and 12	19S	20W	Rush
32 through 34	17S	25W	Ness
1 through 36	18S	21W	Ness
1 through 4 and 7 through 36	18S	22W	Ness
19, 25 through 36	18S	23W	Ness
23 through 27, 35, and 36	18S	24W	Ness
1 through 5, 10 through 13, 24, 33, and 34	28S	25W	Ness
4 through 9	19S	21W	Ness
1 through 12, 17 and 18	19S	22W	Ness
1 through 23	19S	23W	Ness
1, 2, and 7 through 29	19S	24W	Ness
1 through 3 and 11 through 13	19S	25W	Ness

(6) "Technical guidelines for determining the availability of groundwater for appropriation in the Lower Republican River Basin and Belleville Formation and the availability of surface water for appropriation in the Lower Republican River Basin," adopted by the chief engineer, division of water resources, Kansas department of agriculture, on October 1, 1999, is hereby adopted by reference as determining the availability of groundwater for appropriation in the lower Republican River basin and Belleville formation and the availability of surface water for appropriation in the lower Republican River basin.

(7) (A) All applications for a permit to appropriate groundwater from the area described in paragraph (7) (B) for any beneficial use, except for domestic use, temporary permits, and short-term permits for five or fewer years, shall be accepted for filing and given a file number, if acceptable for filing. The application shall be returned by the chief engineer, and the reason that the application will be denied shall be specified by the chief engineer. The applicant shall be given 30 days to show cause why the application should not be denied. If the applicant does not show good cause, the application shall be dismissed.

(continued)

(B) The area is described as sections 17, 18, 19, 20, township 7 south, range 6 west, and sections 13, 14, township 7 south, range 7 west, all in Mitchell County, Kansas.

(C) All applications for permits to appropriate groundwater from sections 29 and 30 in township 7 south, range 6 west, and sections 12, 15, 16, 21, 22, 23, 24, 25, 26, and 27 in township 7 south, range 7 west, all in Mitchell County, Kansas, for any beneficial use, except for domestic use, temporary permits, and term permits for five or fewer years, shall be processed based on the criteria set forth below in paragraph (7) (D).

(D) No new wells shall be allowed in the area described in paragraph (7) (C) above if the proposed well would produce one foot or more of additional drawdown at any existing well in that area and if the proposed well was pumped continuously for 45 days (1,080 hours) at the rate requested on the application. This analysis shall be done by using the Theis equation, with a coefficient of transmissivity of 71,000 gallons per day per foot (gpd/ft) and a coefficient of storage of 0.02.

(E) Any application for a change in the point of diversion filed for a well located in the areas described in paragraphs (7) (B) and (C) above shall be limited to a move of no more than 100 feet, unless the applicant can show the chief engineer that the proposed move will not prejudicially and unreasonably affect the public interest, will not impair existing water rights, and otherwise complies with the provisions of K.S.A. 82a-708b, and amendments thereto. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711; effective Nov. 28, 1994; amended Sept. 22, 2000.)

**5-3-16. Safe yield; exemptions for up to 15 acre-feet of groundwater.** In any area of the state outside a groundwater management district that is subject to safe yield criteria and is not closed by 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, applications to appropriate groundwater shall be exempt from meeting the safe yield criteria if the chief engineer finds that all of the following conditions are met:

(a) The sum of the annual quantity requested by the proposed appropriation and the total annual quantities authorized by prior permits allowed because of an exemption pursuant to this regulation does not exceed 15 acre-feet in a ½-mile-radius circle surrounding the proposed point of diversion.

(b) Well spacing criteria in the area have been met.

(c) 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, which would result in a total combined annual quantity of water authorized from that well in excess of 15 acre-feet.

(d) All other criteria for processing a new application to appropriate water at that location have been met. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711; effective Nov. 28, 1994; amended Sept. 22, 2000.)

**5-3-19. Maximum reasonable annual quantity of water for irrigation use.** (a) For applications filed before

the effective date of this regulation, the maximum annual quantity of water reasonably necessary to irrigate crops shall be determined as follows:

(1) In that area of Kansas located between the eastern border of Kansas and the western border of range 5 east, the maximum reasonable annual quantity of water shall not exceed one acre-foot of water per acre irrigated.

(2) In that area of Kansas located between the eastern border of range 6 east and the western border of range 20 west, the maximum reasonable annual quantity of water shall not exceed 1½ acre-feet of water per acre irrigated.

(3) In that area of Kansas located between the eastern border of range 21 west and the western border of Kansas, the maximum reasonable annual quantity of water shall not exceed two acre-feet of water per acre irrigated.

(b) On and after the effective date of this regulation, the maximum annual quantity of water reasonably necessary to irrigate crops shall be determined by multiplying the number of irrigated acres by the county value found on the map adopted by reference in K.A.R. 5-3-24. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e) and K.S.A. 1999 Supp. 82a-711; effective Sept. 22, 2000.)

**5-3-20. Maximum reasonable annual quantity of water approvable for a new appropriation of water for irrigation use.** (a) The maximum reasonable annual quantity of water that may be approved for use on irrigated land for applications filed before the effective date of this regulation shall be limited to the following:

(1) The quantity of water available for appropriation as determined by the safe yield, allowable appropriation or similar type of limitation adopted by regulation of the chief engineer for the area in which the proposed point of diversion will be located;

(2) the quantity of water reasonably physically available from the source of water supply based on the physical characteristics of the source of water supply and the proposed diversion works; and

(3) the quantity of water reasonably necessary to irrigate crops in the region of the state where the proposed place of use is located as set forth in K.A.R. 5-3-19(a). The authorized quantity shall be determined by multiplying the number of acres approved to be irrigated by the quantity per acre set forth in K.A.R. 5-3-19(a).

(b) The maximum reasonable annual quantity of water that may be approved for use on irrigated land for applications filed on or after the effective date of this regulation shall be limited to the following:

(1) The quantity of water available for appropriation as determined by the safe yield, allowable appropriation or similar type of limitation adopted by regulation of the chief engineer for the area in which the proposed point of diversion will be located;

(2) the quantity of water reasonably physically available from the source of water supply based on the physical characteristics of the source of water supply and the proposed diversion works; and

(3) the quantity of water reasonably necessary to irrigate crops in the region of the state where the proposed place of use is located as set forth in K.A.R. 5-3-19(b).

(c) The quantity specified in subsection (a) or (b) may be exceeded only if the applicant demonstrates both of the following to the chief engineer:

(1) Because of specialty crops or other unusual conditions, the quantity specified in K.A.R. 5-3-19 is insufficient.

(2) The requested quantity is reasonable for the intended irrigation use, is not wasteful, and will not otherwise prejudicially and unreasonably affect the public interest. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 1999 Supp. 82a-711, and K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-3-21. Perfection of a water right for irrigation use.** (a) For applications with a priority date before the effective date of this regulation, the maximum reasonable annual quantity of water that may be perfected for irrigation use shall not exceed the following:

(1) The maximum annual quantity of water actually applied to beneficial use in any one calendar year in accordance with the terms, conditions, and limitations of the approval of application during the perfection period; and

(2) the quantity of water reasonably necessary to irrigate crops in the region of the state where the place of use is located as set forth in K.A.R. 5-3-19(a). The reasonable quantity shall be determined by multiplying the number of acres actually irrigated during the year of record by the quantity per acre as set forth in K.A.R. 5-3-19(a).

(b) For applications with a priority date on or after the effective date of this regulation, the maximum reasonable annual quantity of water that may be perfected for irrigation use shall not exceed the following:

(1) The maximum annual quantity of water actually applied to beneficial use in any one calendar year in accordance with the terms, conditions, and limitations of the approval of application during the perfection period; and

(2) the quantity of water reasonably necessary to irrigate crops in the region of the state where the place of use is located as set forth in K.A.R. 5-3-19(b). The reasonable quantity shall be determined by multiplying the number of acres actually irrigated during the year of record by the quantity per acre set as forth in K.A.R. 5-3-19(b).

(c) The quantity specified in subsection (a) or (b) may be exceeded only if the water right owner demonstrates both of the following to the chief engineer:

(1) Because of specialty crops or other unusual conditions, the quantity specified in K.A.R. 5-3-19 was insufficient.

(2) A greater quantity was reasonable for the intended irrigation use, was not wasteful, and did not otherwise prejudicially and unreasonably affect the public interest. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e) and K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)

**5-3-22. Maximum reasonable quantity of water for livestock and poultry.** (a) The following quantities shall be deemed the maximum quantity of water reasonable for nondomestic livestock and poultry water use:

Livestock/poultry	Drinking water (gallons per head per day)	Additional quantities for servicing/flushing (gallons per head per day)
Cattle, beef	15	0 (open lot) 100 [confined building capacity (cbc)]
Cattle, dairy	35	100 (cbc)
Swine		
finishing	5	15 (cbc)
nursery	1	4 (cbc)
sow and litter	8	35 (cbc)
gestating sow	6	25 (cbc)
Sheep	2	0 (open lot) 15 (cbc)
Horses	12	0 (open lot) 100 (cbc)
Poultry		
chickens (100 layers)	9	200 (cbc)
turkeys (100)	30	400 (cbc)

(b) The maximum reasonable quantity of water that may be approved for nondomestic livestock and poultry use for applications approved on or after the effective date of this regulation shall be limited as set forth in subsection (a) above. The quantities set forth in subsection (a) may be exceeded only if the applicant demonstrates both of the following to the chief engineer:

(1) The requested quantity is reasonable for the intended use.

(2) This quantity not wasteful and will not otherwise prejudicially and unreasonably affect the public interest.

(c) For all other types of nondomestic livestock, poultry, birds, and animals, the maximum quantity of water approved for beneficial use shall be reasonable.

(d) The maximum reasonable quantity of water that may be perfected for nondomestic livestock or poultry use shall not exceed the quantities set forth in subsections (a), (b) and (c) above, unless the water right owner demonstrates both of the following to the chief engineer:

(1) A larger quantity of water was actually applied to beneficial use within the terms, conditions, and limitations of the permit within the perfection period.

(2) The quantity used was not wasted. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 1999 Supp. 82a-711, K.S.A. 82a-712, and K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)

**5-3-23. Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right.** (a) Except as provided in subsections (c), (d), and (e), for water rights with a priority date before the effective date of this regulation, the maximum reasonable annual quantity of water that may be approved for either of the following shall be that quantity of water reasonably necessary to irrigate crops in the region of the state where the proposed place of use is located as set forth in K.A.R. 5-3-19(a):

(1) An application for change in place of use for irrigation filed pursuant to K.A.R. 82a-708b and amendments thereto; or

(continued)

(2) a request to reduce the authorized place of use for irrigation for a water right filed pursuant to K.A.R. 5-7-5.

(b) Except as provided in subsections (c), (d), and (e), for water rights with a priority date on or after the effective date of this regulation, the maximum reasonable annual quantity of water that may be approved for either of the following shall be that quantity of water reasonably necessary to irrigate crops in the region of the state where the proposed place of use is located as set forth in K.A.R. 5-3-19(b):

(1) An application for change in place of use for irrigation filed pursuant to K.A.R. 82a-708b and amendments thereto; or

(2) a request to reduce the authorized place of use for a water right filed pursuant to K.A.R. 5-7-5.

(c) The maximum reasonable quantities approvable in subsections (a) and (b) above shall not exceed either of the following:

(1) The applicable quantity set forth in either subsection (a) or (b) above; or

(2) the maximum quantity of acre-feet per acre authorized by the vested water right or certificate of appropriation, whichever is greater. The maximum authorized quantity of acre-feet per acre shall be calculated by dividing the maximum annual quantity of water authorized at the time the application for change or request to reduce is filed by the number of acres authorized at the time the application for change is filed.

(d) The quantities set forth above in subsections (a), (b), and (c) above may be exceeded only if the applicant demonstrates both of the following to the chief engineer:

(1) Because of specialty crops or other unusual conditions, the quantity specified in K.A.R. 5-3-19(a) is insufficient.

(2) The requested quantity is reasonable for the intended irrigation use, is not wasteful, and will not otherwise prejudicially and unreasonably affect the public interest.

(e) The maximum annual quantity of water approved pursuant to this regulation shall not exceed the maximum annual quantity of water authorized by the water right at the time the change application is approved. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e) and K.S.A. 1999 Supp. 82a-708b; effective Sept. 22, 2000.)

**5-3-24. Reasonable quantity for irrigation use.** The Kansas department of agriculture, division of water resources' map titled "reasonable quantities for irrigation use in Kansas, by county," dated October 21, 1999, is hereby adopted by reference. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 1999 Supp. 82a-711, and K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)

**5-3-25. Conditions on permits and certificates.** (a) All terms, conditions, and limitations placed on an approval of application by the chief engineer pursuant to the provisions of K.S.A. 82a-712, and amendments thereto, shall remain in full force and effect until expressly modified or removed by the chief engineer.

(b) Unless the terms and conditions are expressly modified or removed by the subsequent approval, certifica-

tion, or other order of the chief engineer, none of the following shall modify or remove any of the terms, conditions, and limitations placed on the original approval of applications or water right:

(1) The approval of an application to change the place of use, the point of diversion, or the use made of water under the authority of K.S.A. 82a-708b and amendments thereto;

(2) the issuance of a certificate of appropriation pursuant to K.S.A. 82a-714 and amendments thereto; or

(3) the issuance of any other findings and order relative to the approval of application or water right. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-708b, K.S.A. 1999 Supp. 82a-711, K.S.A. 82a-712, and K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)

**5-3-26. Availability of water for appropriation from portions of the Pawnee sub-basin in Ness and Hodgeman counties.** (a) Each application received on or after January 1, 1989 for a permit to appropriate surface or groundwater from Buckner Creek, Saw Log Creek and the Pawnee River, their tributaries, their alluviums, and hydraulically connected sources of water supply in Ness and Hodgeman counties for beneficial use, except for domestic use, temporary permits, and term permits for five years or less, shall be accepted for filing and given a file number, if acceptable for filing.

(b) All applications described in subsection (a) above that do not meet the safe yield, well spacing, or all other applicable regulations in effect at the time they were filed shall be dismissed.

(c) All applications described in subsection (a) above that do not meet the criteria of subsection (b) shall not be processed and shall be held until the chief engineer determines whether additional water is available for appropriation in the area described in subsection (a). Those applications shall be held until the chief engineer amends this regulation, or July 1, 2002, whichever comes first. If the chief engineer amends this regulation, the applications being held shall be processed in accordance with the provisions of those new regulations.

(d) On July 1, 2002, if the chief engineer has not adopted any new regulations pertaining the applications being held pursuant to subsection (c), all pending applications to appropriate surface and groundwater from the alluvial aquifer and hydraulically connected sources of water supply being held pursuant to subsection (c) shall be processed in accordance with K.A.R. 5-3-11 and all regulations that were in effect at the time the applications were filed.

(e) Each applicant with a pending application shall be notified by the chief engineer that the application is being held and the reason why it is being held. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711 and K.S.A. 82a-721; effective Sept. 22, 2000.)

**5-3-27. Equus Beds special groundwater quality area.** (a) A special groundwater quality area located within the boundaries of the Equus Beds groundwater management district no. 2 shall be hereby established in the following area consisting of approximately 36 square miles in northwest Harvey County, south-central McPherson County, and northeast Reno County, Kansas:

(1) Sections 3 through 10, 15 through 22, and 27 through 34, of township 22 south, range 3 west, Harvey County;

(2) sections 31 through 34, township 21 south, range 3 west, and section 36, township 21 south, range 4 west, McPherson County; and

(3) sections 1, 12, 13, 25, 26, and 36, township 22 south, range 4 west, Reno County, Kansas.

(b) Each application for a new appropriation of groundwater, a newly constructed well, or a change in the point of diversion for a well within the area shall be reviewed by the chief engineer to determine the effect of the proposed appropriation or well on the movement of saltwater pollution in the area.

(c) A test well log shall accompany each type of application described in subsection (b) within the area described in subsection (a) above and shall include the following information:

(1) Depth to bedrock;

(2) a water quality analysis of water taken from the bottom 20 feet of the aquifer, including sodium and chloride concentrations; and

(3) a water quality analysis of water taken within the top 20 feet of the aquifer, including specific conductance and chloride concentrations.

(d) If the chief engineer can not determine whether the proposed application will affect the movement of saltwater pollution in the area in a manner that is adverse to the public interest or that will cause impairment to other water rights by causing an unreasonable deterioration of the water quality, then the applicant shall submit any information the chief engineer needs to make that determination. The information shall be submitted within a reasonable time period specified by the chief engineer.

(e) The chief engineer shall submit the proposed application to the board of the Equus Beds groundwater management district no. 2 for its review and recommendation. The board shall have 30 days to review the application and provide its recommendation to the chief engineer. The recommendation of the board shall be considered by the chief engineer in making a decision as to whether the application can be approved as filed or modified.

(f) The application shall be dismissed and its priority forfeited if either of the following conditions is met:

(1) The chief engineer determines that approval of the application will affect the movement of saltwater pollution in the area in a manner that will prejudicially and unreasonably affect the public interest or that will cause impairment to other water rights by causing an unreasonable deterioration of the water quality because of saltwater pollution.

(2) The applicant fails to submit the information requested by the chief engineer within the time specified.

(g) The application shall be approved if both of the following conditions are met:

(1) The chief engineer determines that the approval of the application, as filed or modified, will not affect the movement of saltwater pollution in the area in a manner that is adverse to the public interest and will not cause impairment to other water rights by causing an unreasonable deterioration of the water quality because of saltwater pollution.

(2) The application meets all other statutory and regulatory criteria.

(h) In addition to reporting the information normally required in the water use reports required by K.S.A. 82a-732, and amendments thereto, each owner of a water right or approval of application shall also report the depth to the static water level in each well, in a manner acceptable to the chief engineer.

(i) All groundwater diversion works permitted in the Equus Beds special groundwater quality area shall be equipped with a water flowmeter that meets the specifications adopted by the chief engineer, except for domestic wells, temporary wells, and wells authorized by term permits for fewer than five years. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c, K.S.A. 82a-709, K.S.A. 82a-710, K.S.A. 1999 Supp. 82a-711, and K.S.A. 82a-732; effective Sept. 22, 2000.)

**5-3-28. Lyons special groundwater quality area.** (a)

A special groundwater quality area all in Rice County, Kansas, and partially located within the boundaries of the Big Bend groundwater management district no. 5 shall be hereby established in the following described area consisting of approximately 37 square miles in central Rice County, Kansas:

(1) Sections 33, 34, and 35 of township 19 south, range 8 west;

(2) sections 1-4, 9-16, 21-25, township 20 south, range 8 west;

(3) sections 7, 17-21, 27-34, township 20 south, range 7 west; and

(4) sections 3-5, township 21 south, range 7 west.

(b) Each application for a new appropriation of groundwater, a newly constructed well, or a change in point of diversion for a well proposed to be located within the area shall be reviewed by the chief engineer to determine whether the proposed appropriation will have any adverse effect on the movement and remediation of saltwater pollution south and east of Lyons, Kansas.

(c) A test well log shall accompany each type of application filed for a point of diversion described in subsection (b) that is proposed to be located within the area described in subsection (a), and shall include the following information:

(1) Depth to bedrock;

(2) a water quality analysis of water taken from the bottom 20 feet of the aquifer, including analysis of sodium and chloride concentrations; and

(3) a water quality analysis of water taken within the top 20 feet of the aquifer, including analysis of sodium and chloride concentrations.

(d) If the chief engineer cannot determine whether the proposed application will affect the movement and cleanup of saltwater pollution south and east of Lyons in a manner that is adverse to the public interest or that will cause impairment to other water rights by causing an unreasonable deterioration of the water quality, then the applicant shall submit any information the chief engineer needs to make that determination. The information shall be submitted within a reasonable time period specified by the chief engineer.

(e) If the proposed point of diversion is located within the district, the proposed application shall be submitted

(continued)

by the chief engineer to the board of the district for review and recommendation. The board shall have 30 days to review the application and submit its recommendation to the chief engineer. The recommendation of the board shall be considered by the chief engineer in making a decision as to whether the application can be approved as filed or modified.

(f) The application shall be dismissed and its priority forfeited if either of the following conditions is met:

(1) The chief engineer determines that approval of the application will affect the movement and cleanup of saltwater pollution south and east of Lyons in a manner that prejudicially and unreasonably affects the public interest or that will cause impairment to other water rights by causing an unreasonable deterioration of the water quality because of saltwater pollution.

(2) The applicant fails to submit the information requested by the chief engineer within the time specified.

(g) The application shall be approved if both of the following conditions are met:

(1) The chief engineer determines that the approval of the application, as filed or modified, will not affect the movement and cleanup of saltwater pollution south and east of Lyons in a manner that would prejudicially and unreasonably affect the public interest and will not cause impairment to other water rights by causing an unreasonable deterioration of the water quality because of saltwater pollution.

(2) The application meets all other applicable statutory and regulatory criteria. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c, K.S.A. 82a-709, K.S.A. 82a-710, K.S.A. 1999 Supp. 82a-711, and K.S.A. 82a-732; effective Sept. 22, 2000.)

#### Article 4.—DISTRIBUTION OF WATER BETWEEN USERS

**5-4-5. Approval of application for additional rate only.** (a) Except as set forth in subsection (c), an application for a permit to appropriate water for beneficial use that requests only an increase in the authorized rate of diversion, and no net increase in maximum annual quantity, from a specific point of diversion already authorized by another water right or approval of application shall be exempt from complying with any safe yield, allowable appropriation, or similar type of criteria adopted by the chief engineer if both of the following conditions are met:

(1) The application requests only an increase in the authorized maximum rate of diversion of 15 percent or less.

(2) There has been no significant physical enlargement of the capacity of the original diversion works to divert water. If a well has been replaced, reconstructed, and re-equipped in accordance with an approval of an application for change by the chief engineer pursuant to K.S.A. 82a-708b and amendments thereto in substantially the same way that the original diversion works were constructed, that type of well shall not be considered to be a significant physical enlargement of the diversion works. Conversion to a battery of wells or adding an additional well shall be considered to be a significant physical enlargement of the capacity of the diversion works.

(b) Except as set forth in subsection (c), an application to increase the rate of diversion by more than 15 percent

that requests no net increase in maximum annual quantity from a specific point of diversion already authorized by another water right or approval of application shall be exempt from complying with any safe yield, allowable appropriation, or similar type of criteria adopted by the chief engineer if the conditions in either paragraph (b)(1) or (2) are met:

(1)(A) The application was filed within the time authorized to perfect any water right authorizing that point of diversion.

(B) The application is filed to increase the authorized maximum rate of diversion to the rate the original diversion works were physically capable of diverting water under actual maximum operating conditions, or less.

(2) The appropriator demonstrates to the chief engineer that authorizing an increase in the rate of diversion meets the following criteria:

(A) Will not impair existing water rights;

(B) will not prejudicially and unreasonably affect the public interest; and

(C) will not substantially increase the consumptive use in violation of K.A.R. 5-5-3.

(c) If the chief engineer adopts a regulation pertaining to applications for additional rate only for a specific groundwater management district, or issues an order concerning that type of application pursuant to an intensive groundwater use control area (IGUCA) proceeding authorized by K.S.A. 82a-1036 et seq. and amendments thereto, the application for additional rate shall be processed by the chief engineer pursuant to the provisions of that regulation or IGUCA order. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-701(f), K.S.A. 1999 Supp. 82a-711, K.S.A. 82a-712, K.S.A. 82a-1036, K.S.A. 82a-1037, K.S.A. 1999 Supp. 82a-1038, K.S.A. 82a-1039, and K.S.A. 82a-1040; effective Sept. 22, 2000.)

**5-4-8. Custodial care of the state.** (a) For any groundwater or surface water right placed in the custodial care of the state, the following criteria shall be met by the chief engineer:

(1) Not reappropriate the water authorized to be diverted by a water right in the custodial care of the state;

(2) continue to include the priority, terms, limitations, authorized rate and quantity, and other conditions of the water right in any analysis or action conducted for the permitting, management, regulation, or administration of other water rights or applications to appropriate water;

(3) not declare the water right abandoned for the non-use of water. Placement of the water right in the custodial care of the state shall be deemed to be due and sufficient cause for nonuse of a water right pursuant to K.S.A. 82a-718 and amendments thereto; and

(4) not dismiss the water right, unless the chief engineer determines that the geographic area in which the water right is located no longer meets the requirements of K.S.A. 2-1919(2), and amendments thereto, and reopens the area to new appropriations of water.

(b) A water right owner desiring to place a portion of an existing water right in the custodial care of the state shall request the division to divide the water right. Each portion of a divided water right shall be treated as a separate water right and administered accordingly. (Author-



ized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(d) and K.S.A. 1999 Supp. 82a-718; effective Sept. 22, 2000.)

**Article 5.—CHANGE IN THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE OF WATER UNDER AN EXISTING WATER RIGHT**

**5-5-1. Filing an application for change.** (a) An application for approval to change the place of use, the point of diversion, the use made of water, or combinations thereof, filed pursuant to K.S.A. 82a-708b and amendments thereto, shall be made on a form prescribed by the chief engineer and shall include whatever information is required by the chief engineer to properly understand the proposed change in the place of use, the point of diversion, the use made of water or any combination of these.

(b) Before the application may be accepted for filing, the application shall be signed by at least one owner of the water right, or a duly authorized agent of an owner.

(c) Except as set forth in subsection (e), before any approval of an application can be granted, all of the water right owners, including their spouses, or a duly authorized agent of the owners of the water right, shall verify upon oath or affirmation that the statements contained in the application are true and complete.

(d) If one or more owners refuse to sign the application, or a written request is filed by one or more owners to withdraw their signatures from the application before the application is approved, the application shall be dismissed.

(e) (1) An application to change the location of a groundwater point of diversion that proposes to do only the following shall be signed by at least one owner of the approval of application or water right, or the duly authorized agent, who verifies upon oath or affirmation all of the items specified below in paragraph (e)(2):

(A) Move the location of the well 300 or fewer feet; and

(B) have the new well located on land owned by all the same owners as the owners of the original point of diversion.

(2) (A) The signer of the application for change has the authority to sign the application on behalf of all the owners.

(B) None of the ownership interests of any of the owners of the approval of application or water right will be adversely affected if the application for change is approved as filed.

(C) If the application is not approved expeditiously, there will be substantial damage to property, public health, or safety. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-708b; modified, L. 1978, ch. 460, May 1, 1978; amended Sept. 22, 2000.)

**5-5-6. Failure to construct diversion works at authorized location.** (a) If an application to appropriate water for beneficial use is approved by the chief engineer, the location of the point of diversion shall be limited to a specific tract of land and to within 300 feet of a point identified in distances measured in feet north and west from the southeast corner of the legal section.

(b) If the diversion works were not constructed at the location authorized for the point of diversion, but the appropriator can demonstrate to the satisfaction of the chief

engineer that all of the following criteria have been met, the authorized location shall be corrected to the actual location of the point of diversion by a correctional order issued by the chief engineer:

(1) The original application was filed before January 1, 1978.

(2) The diversion works were constructed before the date the original application to appropriate water was signed.

(3) It was not discovered that the actual diversion works were not constructed at the authorized point of diversion until after the application was approved.

(4) The diversion works were constructed at a location that could have been approved at the time the original application was filed based on the criteria in effect at the time the original application was filed.

(c) An application for a change in point of diversion filed pursuant to K.S.A. 82a-708b and amendments thereto shall be approved by the chief engineer, authorizing the actual location where the diversion works were constructed and extending the time to construct the diversion works until the end of the calendar year in which the application to change the point of diversion was approved, if the diversion works were not constructed at the authorized location, but the appropriator can demonstrate to the satisfaction of the chief engineer that all of the following criteria have been met:

(1) The original application was filed with the chief engineer before January 1, 1978.

(2) The diversion works were completed after the application was filed, but within the time authorized to construct the diversion works.

(3) The diversion works were constructed within 1,320 feet of the authorized point of diversion.

(4) The diversion works were constructed at a location that could have been approved at the time that the original application was filed based upon the criteria in effect at the time the original application was filed.

(5) The change application meets the other criteria of K.S.A. 82a-708b and amendments thereto.

If the actual point of diversion is within a groundwater management district, the application shall be sent to the groundwater management district board for review and recommendation.

(d) The point of diversion shall be authorized at the actual location by approval of a new application to appropriate water by the chief engineer if the diversion works were not constructed at the authorized location, but the appropriator can demonstrate to the chief engineer that all of the following criteria have been met:

(1) The original application was filed on or after January 1, 1978.

(2) The diversion works were subsequently completed within the time authorized to complete the diversion works.

(3) The diversion works were constructed within 1,320 feet of the authorized point of diversion.

(4) The time authorized to complete the diversion works has expired.

(5) There is no water available for a new appropriation to be approved at the location of the actual point of diversion.

(continued)

(6) The application would have met all the criteria for a new application that were in effect at the time the original new application was filed.

If the actual point of diversion is within a groundwater management district, the application shall be sent to the groundwater management district board for review and recommendation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-708b, and K.S.A. 82a-728; effective May 1, 1980; amended Sept. 22, 2000.)

**5-5-13. Relocation of alluvial wells.** If an authorized point of diversion is a well that has as its source of supply an alluvium in a reach of a basin that is fully appropriated or closed to new appropriations, the approval of a change in point of diversion, and any subsequent approvals of changes in points of diversion, shall not authorize the distance between the well and the centerline of the stream to be decreased by more than 10 percent since the time the source of supply became fully appropriated or was closed to new appropriations. (Authorizing by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-708b; effective Sept. 22, 2000.)

**5-5-14. Duties of owners of approvals of applications and water rights.** (a) All of the owners of an approval of application or a water right shall be responsible for taking all legally required actions necessary to maintain the validity of the approval of application or water right, including the filing of statutorily required fees, reports, and applications.

(b) (1) Unless the approval of application or the water right has been severed from the authorized place of use, except as set forth in paragraph (b) (2), all of the owners of the authorized place of use shall be considered to be the owners of the approval of application or the water right.

(2) Unless the chief engineer has documentation to the contrary, an approval of application or water right for municipal use shall be considered to be owned by the entity owning and operating the water distribution system. A water right for an irrigation district shall be considered to be owned by the irrigation district. (Authorized by and implementing K.S.A. 82a-706a; effective Sept. 22, 2000.)

**5-5-16. Additional wells.** (a) An application for approval to change the point of diversion to add an additional point of diversion to divert groundwater, by either constructing a new well or moving a portion of a water right to a well that has previously been authorized by the chief engineer, shall not be approved unless it meets the following requirements:

(1) The provisions of K.S.A. 82a-708b, and amendments thereto, and any applicable regulations adopted by the chief engineer shall be met.

(2) The total maximum quantity of water authorized to be diverted each calendar year by the original well or wells, and the additional well or wells, shall not exceed any of the following limits:

(A) The maximum annual quantity of water that has been perfected;

(B) the maximum annual quantity of water authorized to be diverted before approval of the change; or

(C) the maximum consumptive use during the perfection period as required by K.A.R. 5-5-3 and as specified in either paragraph (a) (2) (C) (i) or (ii):

(i) If the water right authorizes the use of water for irrigation use, the consumptive use shall be presumed to not be increased in violation of K.A.R. 5-5-3 if the maximum annual quantity requested does not exceed the quantity in acre-feet calculated by use of the following formula: multiply the maximum number acres legally irrigated in any one year during the perfection period by the 80 percent chance net irrigation requirements (N.I.R.), as set forth in K.A.R. 5-5-12 expressed in acre-feet, and divide that number by a delivery efficiency of 0.85.

(ii) If the beneficial use authorized is not irrigation, the net consumptive use during the perfection period shall be determined using the best information available.

(3) The total maximum rate of diversion that may be authorized for the original well or wells and the additional well or wells shall not be greater than the total maximum rate of diversion that could have been diverted from the original well or wells if they were currently being replaced by new wells at substantially the originally authorized location or locations in the same local source of supply. A reasonable value for the maximum rate of diversion shall be one of the following:

(A) The total rate of diversion based on a current water flow rate test done on the point or points of diversion; or

(B) a value based on a valid hydraulic analysis submitted by the applicant showing the current capacity of the aquifer to yield water at the currently authorized point or points of diversion.

(4) A condition shall be placed on the approval of the application for change authorizing the additional well or wells that provides that, for the sole purpose of administering wells concerning direct impairment, the additional well or wells shall be considered to have the priority of the date the application was filed to add the additional well or wells.

(b) The applicant shall submit the following information:

(1) A well completion log of the original well or a stratigraphic log of a test hole located within 300 feet of the original well;

(2) the depth of the original well;

(3) the current depth to the static water level at the original well;

(4) a stratigraphic log of a test hole located within 300 feet of the proposed location of each of the proposed additional well or wells; and

(5) any additional information that the chief engineer needs to understand the nature of the proposed additional well or wells.

(c) The proposed additional well or wells shall meet one of the following conditions:

(1) Meet the well spacing requirements to all other wells with a priority earlier than the date the change application was filed; or

(2) if a hydraulic analysis shows that the approval of the proposed additional well within 300 feet of the currently authorized well location will neither impair any water rights senior to the date the application for change was filed nor prejudicially and unreasonably affect the

public interest, be located within a 300-foot radius of one of the wells, or the geocenter if the currently authorized point of diversion is a battery of wells, authorized pursuant to the water right upon which the change application has been filed.

(d) Each point of diversion authorized by an approval of an application for change for an additional well shall have a specific assignment of a maximum instantaneous rate of diversion and a maximum annual quantity of water.

(e) Each well authorized by a water right that has been changed under the provisions of this regulation shall be equipped with a separate water flowmeter that meets or exceeds the specifications for water flowmeters adopted by the chief engineer.

(f) Each approval of an additional well or wells shall have a condition that reserves jurisdiction for the chief engineer to review the approval of the additional well or wells at intervals of no fewer than five years, and not more than 10 years, to determine if the total annual quantity of water actually being withdrawn by all wells authorized by the approval of an application for change is exceeding the total annual quantity of water that could have been physically withdrawn if the additional well or wells had not been approved. If the chief engineer determines during the review that the total annual quantity being withdrawn by all the wells, including the additional wells, exceeds the total annual quantity of water that could have been physically withdrawn by the original well or wells, the total maximum annual quantity that can be withdrawn by all the wells shall be reduced by the chief engineer to the total maximum annual quantity that could have been physically withdrawn by the original well or wells. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-701(f) and K.S.A. 1999 Supp. 82a-708b; effective Sept. 22, 2000.)

#### Article 6.—STORAGE OF WATER

**5-6-3. Potential net evaporation.** (a) The Kansas department of agriculture, division of water resources' map titled "potential net evaporation, in inches, for Kansas," dated September 6, 1996, is hereby adopted by reference for the purpose of determining potential net evaporation from a free water surface.

(b) The values on the map shall be used in all situations in which determination of potential net evaporation from a free water surface is necessary, including the following:

(1) Calculating the maximum annual quantity of water allowed to be appropriated for the storage of surface water in a reservoir;

(2) computing the annual amount of evaporation that will be caused by exposing the groundwater table;

(3) calculating the quantity of evaporation from surface water or exposed groundwater that will be used to determine annual water use; and

(4) determining the maximum annual quantity of water that is perfected pursuant to K.S.A. 82a-714 and amendments thereto.

(c) The values shown on the map shall be used unless the applicant provides, or the chief engineer has available, better or more site-specific data concerning potential

net evaporation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 1999 Supp. 82a-711, and K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)

#### **5-6-4. Determination of potential annual runoff.**

(a) Unless the applicant for an approval of application supplies, or the chief engineer has available, better or more site-specific data, the potential annual runoff shall be determined using the following:

(1) A 20 percent chance of occurrence of runoff by extrapolating from the "annual yield of runoff" graph of the United States department of agriculture, natural resources conservation service, national engineering handbook series, part 650, engineering field handbook, EFM notice KS-38, dated December 12, 1991, which is adopted by reference;

(2) the soil cover complex number of the drainage basin, using the "generalized soil cover complex number" map of Kansas produced by the Kansas department of agriculture, division of water resources, dated August 1999, which is hereby adopted by reference;

(3) the normal annual precipitation in the watershed as set forth in K.A.R. 5-6-12; and

(4) the area of the watershed of the reservoir determined by using a United States geological survey 7½-minute topographic map.

(b) In computing the potential annual runoff of the watershed of the reservoir, if the quantity of water applied for, or authorized by, prior upstream surface water and groundwater applications, approvals of applications, and existing water rights within the watershed of the reservoir will significantly decrease the potential annual runoff available for appropriation in the reservoir, the impact of those rights on the potential annual runoff shall be subtracted from the total computed potential annual runoff in order to determine the potential annual runoff available. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e) and K.S.A. 1999 Supp. 82a-711; effective Sept. 22, 2000.)

**5-6-5. Maximum reasonable annual quantity for storage of water for beneficial use in a reservoir.** The maximum reasonable annual quantity of water that may be authorized for appropriation by the chief engineer for diversion and storage in a reservoir shall be limited to the maximum of either of the following:

(a) The potential annual runoff; or

(b) the total of the following:

(1) A three-year supply of water to be rediverted for all authorized beneficial uses; and

(2) a three-year supply of water for indirect use subject to the following limitations:

(A) A maximum of three years of indirect use shall be authorized for each reservoir as a whole; and

(B) If the maximum annual quantity of water requested for rediversion exceeds the reservoir capacity, the maximum annual quantity of water authorized to be diverted and stored in any one year shall not exceed the total of the following:

(i) The annual quantity of water rediverted for beneficial use;

(ii) the reservoir capacity; and

(continued)

(iii) one year of indirect use from the reservoir. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 1999 Supp. 82a-711, and K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-6-6. Initial filling and refilling of a reservoir.** (a) The initial filling of a reservoir that has a capacity that exceeds the maximum annual quantity of water authorized shall be authorized by a special condition on the approval of application.

(b) Each refilling of a reservoir after the release of water for maintenance or similar reasons shall be required to be authorized by a term permit if the reservoir capacity exceeds the maximum annual quantity authorized. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 1999 Supp. 82a-711, and K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-6-7. Determination of average annual potential net evaporation loss.** The average annual potential net evaporation loss shall be determined by multiplying the surface area of the reservoir at the top of the reservoir capacity times the value for average annual potential net evaporation, as set forth in K.A.R. 5-6-3, for the township in which the point of diversion is located. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 1999 Supp. 82a-711, and K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-6-8. Determination of average annual seepage loss from a reservoir.** Average annual seepage loss from a reservoir shall be determined by the chief engineer based on relevant, credible information furnished by the applicant. If no relevant, credible information is supplied by the applicant, it shall be assumed by the chief engineer that there is no seepage loss. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 1999 Supp. 82a-711, and K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-6-9. Administration of surface water stored in a reservoir.** Water lawfully stored within any reservoir authorized to store water for subsequent beneficial use shall not be subject to administration unless senior water right holders downstream of the reservoir make an appropriate request to have water bypassed to satisfy their senior water right within two weeks of the runoff event, or any other time frame in which inflow to the reservoir could reasonably have been expected to be available to the downstream senior water right if the reservoir had not impounded the water. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706b; effective Sept. 22, 2000.)

**5-6-10. Authorized place of use for stored surface water.** The approval of application shall limit the authorized place of use to the actual location where the water will be put to beneficial use. If the authorized use is for recreational use within the reservoir only, the authorized place of use shall not exceed the size and location of the surface area of the reservoir at the elevation of the top of the principal spillway. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711 and K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-6-11. Reasonable rate of diversion for storage of surface water in a reservoir.** Each approval of application

shall limit the rate of diversion for storage of surface water in a reservoir to all natural flows not necessary to satisfy all of the following:

- (a) Senior water rights;
- (b) senior approvals of applications;
- (c) senior water reservation rights; and
- (d) senior minimum desirable stream flows pertaining to the use of water from the same source of water supply. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-6-12. Average annual precipitation.** (a) The Kansas department of agriculture, division of water resources' map titled "normal annual precipitation, by township, 1961-1990," dated September 29, 1999, is hereby adopted by reference for the purpose of determining average annual precipitation.

(b) The data on the map shall be used in all situations in which the determination of average annual precipitation is necessary, including calculating the maximum annual quantity of water allowed to be appropriated for the storage of surface water in a reservoir.

(c) The values shown on the map shall be used unless the applicant provides, or the chief engineer has available, better or more site-specific data concerning average annual precipitation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711; effective Sept. 22, 2000.)

**5-6-13. Water level measurement tube specifications.** (a) The Kansas department of agriculture, division of water resources' document titled "specifications for water level measurement tube," dated November 5, 1999, is hereby adopted by reference.

(b) If a water level measurement tube is required by the chief engineer to be installed, the required water level measurement tube shall be installed in accordance with the specifications for water level measurement tubes adopted by the chief engineer. These requirements are in addition to those made by the Kansas department of health and environment pursuant to the groundwater exploration and protection act, K.S.A. 82a-1201 et seq., and amendments thereto.

(c) As long as the well is permitted, the water level measurement tube shall be maintained in a satisfactory condition. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706c; effective Sept. 22, 2000.)

**5-6-14. Irrigation with effluent from a confined feeding facility lagoon.** An individual who irrigates with effluent pumped from a confined feeding facility lagoon or runoff retention pit shall not be required to have an approval of application pursuant to K.S.A. 82a-701 et seq. and amendments thereto, unless there are more than 15 acre-feet of average annual runoff meeting the following criteria:

- (1) Is generated from outside of the confined feeding facility;
- (2) is impounded in the lagoon or runoff retention pit; and
- (3) is used for irrigation purposes. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-705 and 82a-707(a); effective Sept. 22, 2000.)

**5-6-15. Drainage basin boundaries.** (a) The following electronic data files, all dated August 23, 1999, prepared by the division of water resources, Kansas department of agriculture, using data developed by the United States geological survey and the natural resource conservation service, are hereby adopted by reference by the chief engineer for the purpose of defining the boundaries of the 62 drainage basins in Kansas:

- (1) dwrbasins.dbf;
- (2) dwrbasins.sbn;
- (3) dwrbasins.sbx;
- (4) dwrbasins.shp; and
- (5) dwrbasins.shx.

(b) The electronic data files described in subsection (a) shall be used in all situations in which determination of the basin boundaries is necessary.

(c) The boundaries shown in the electronic data files shall be used unless the applicant provides, or the chief engineer has available, better or more site-specific data concerning the actual drainage basin boundaries. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711 and K.S.A. 82a-712; effective Sept. 22, 2000.)

#### Article 7.—ABANDONMENT AND TERMINATION

**5-7-4. Water rights conservation program.** (a) Enrollment in the water rights conservation program (WRCP) approved by the chief engineer, and continued compliance with the WRCP shall constitute due and sufficient cause for nonuse pursuant to K.S.A. 82a-718, and amendments thereto, and K.A.R. 5-7-1 during the time the water right is enrolled in the WRCP.

(b) In order to qualify for enrollment in the WRCP, the following conditions shall be met:

(1) The point of diversion shall be located in either of the following locations:

(A) In an area that is closed to new appropriations of water, except for temporary permits, term permits, and domestic use; or

(B) in some other area designated by the chief engineer as an area where it would be in the public interest to allow water rights to be placed in the WRCP. In areas within the boundaries of a groundwater management district, the recommendations of the board of the district shall be taken into consideration by the chief engineer.

(2) Each of the owners of the water right shall agree to totally suspend all water use authorized by that water right for the duration of the contract.

(3) The owner or owners of the water right shall sign a contract with the chief engineer, or the chief engineer's authorized representative, before placing the water right into the WRCP. The contract shall be binding on all successors in interest to the water right owner.

(4) Only an entire water right may be placed into the WRCP. If a portion of a water right has been abandoned, the portion that is still in good standing may be enrolled in the WRCP. If a water right is administratively divided by the chief engineer, each portion of a formally divided water right shall be considered to be an entire water right for the purpose of this regulation.

(A) If at least five successive years of nonuse have occurred before application for enrollment in the WRCP, a determination of whether or not that water right is subject to abandonment before entry into the program, including an analysis of any reasons given that might constitute due and sufficient cause for nonuse, shall be made by the chief engineer.

(B) If, after review of the information, it appears that the right has been abandoned, the statutory procedures, including the right to a hearing, shall be followed to determine whether or not it has been abandoned.

(5) Only the portion of a water right in good standing at the time of application for enrollment may be entered into the WRCP.

(c) Other obligations, responsibilities, and aspects of enrollment in the WRCP program shall include the following:

(1) Water rights shall originally be placed into the WRCP for a definite period of calendar years of no fewer than five and no more than ten. The owner of the water right may apply for renewal of the contract for a period not to exceed 10 years. Applications for renewal shall be subject to the approval of the chief engineer. In determining whether or not to approve the renewal, the following factors shall be taken into account by the chief engineer:

(A) The hydrologic conditions in the vicinity of the point of diversion;

(B) the effect of renewal on the public interest; and

(C) any other relevant information.

(2) The water right owner or operator shall not be required to maintain the diversion works or delivery system during the period of the WRCP contract. If the pump is removed from a well, the well shall be properly capped or sealed during the contract. These requirements are in addition to those made by the Kansas department of health and environment pursuant to the groundwater exploration and protection act, K.S.A. 82a-1201 et seq., and amendments thereto.

(3) A certificate determining the extent to which a water right has been perfected shall be issued by the chief engineer before entering the water right into the WRCP if all of the following conditions are met:

(A) An applicant has a permit to appropriate water for beneficial use and has perfected all, or any portion, of the water right authorized by the permit.

(B) The time in which to perfect the water right has expired, including any authorized extensions of time.

(C) A field inspection has been completed.

(4) If the time to perfect the water right, or any authorized extension of it, has not expired, enrollment in the WRCP shall be considered as suspending the time to perfect. Upon expiration of the WRCP contract pertaining to this water right, the time to perfect shall again commence, and the applicant shall be required to perfect the water right within the remainder of the time allowed to perfect, or any authorized extension of that time.

(5) Each year after authorized enrollment in the WRCP, the water use correspondent shall indicate on the water use report that no water was used because the water right was enrolled in the WRCP.

(6) If the owner breaches, or causes or allows a breach of, the WRCP contract with the chief engineer, each year

(continued)

of nonuse between the effective date of the contract and the date of the breach shall be counted as years of nonuse without due and sufficient cause for the purpose of determining whether or not the water right has been abandoned pursuant to the provisions of K.S.A. 82a-718, and amendments thereto. Before this penalty is imposed, the owner shall be given an opportunity to show either of the following:

(A) A breach of contract did not occur.

(B) A breach occurred, but either was minor or has been cured, and should not constitute grounds for imposing the penalty. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706, K.S.A. 82a-713, K.S.A. 1999 Supp. 82a-714, and K.S.A. 1999 Supp. 82a-718; effective July 1, 1994; amended Sept. 22, 2000.)

**5-7-4a. Conservation reserve program.** (a) Enrollment of all, or part of, the authorized place of use in the conservation reserve program (CRP) shall not be considered good cause to extend the time to construct the diversion works.

(b) If an authorized place of use has been placed into the CRP after the diversion works have been completed but before the time to perfect the water right has expired, the appropriator may request and receive an extension of time to perfect the water right for the length of time that the authorized place of use is enrolled in the CRP program, plus the length of time remaining to perfect the water right, if all of the following conditions are met:

(1) The diversion works were properly completed within the time allowed by the approval of application.

(2) The time to perfect the water right as set forth in the approval of the application has not expired at the time the request for the extension is filed.

(3) The appropriator furnishes the chief engineer with a copy of the CRP contract, including the aerial photograph designating which land has been placed into the CRP program. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-713 and K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)

**5-7-5. Reduction of an existing water right.** (a) In order to have an approval of application or water right reduced, the water right owner may file, at any time, a request to reduce any of the following:

(1) The authorized maximum annual quantity of water;

(2) the authorized maximum rate of diversion;

(3) the authorized place of use;

(4) the authorized points of diversion;

(5) the types of beneficial use; or

(6) any combination of paragraphs (a)(1) through (a)(5).

(b) The request to reduce a water right shall be filed on a form prescribed by the chief engineer.

(c) The request to reduce shall be submitted in proper form and shall include the following information:

(1) Except as set forth in subsection (d) below, notarized signatures of all water right owners that would be required by K.A.R. 5-5-1 to sign an application for change under K.S.A. 82a-708b and amendments thereto;

(2) a clear description of which portion or portions of the approval of application or water right are proposed to remain;

(3) a statement that all of the owners of the approval of application or water right are waiving any right they might have to a hearing concerning the dismissal or abandonment of any portion of the approval of application or water right that they are requesting to have removed; and

(4) any other information requested by the chief engineer.

(d) A request solely to reduce the authorized place of use that will not affect the approval of application or water right in any other way shall be only required to be signed only by all of the owners of the authorized place of use that is proposed to be deleted.

(e) A reasonable request to reduce an approval of application or water right that is submitted in proper form shall be approved by the chief engineer unless it will cause the impairment of existing water rights or prejudicially and unreasonably affect the public interest. If the request to reduce the water right or approval of application is to remove a point of diversion, the approval shall reduce only that maximum annual quantity of water and maximum rate of diversion associated with the authorized point of diversion that is removed.

(f) A request to reduce an existing water right shall not be considered to be an application for a change pursuant to K.S.A. 82a-708b and amendments thereto, so no application fee shall be required. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706 and 82a-721; effective Sept. 22, 2000.)

#### Article 8.—CERTIFICATION OF WATER RIGHTS

**5-8-3. Perfection; multiple water rights.** (a) The total maximum annual quantity of water that can be perfected by all water rights authorized to divert water to the same authorized place of use, shall be limited to the maximum quantity of water actually physically and legally diverted and applied to beneficial use on the common authorized place of use during any one calendar year during the perfection period for the water right being certified.

(b) The junior water right shall be limited by means of a limitation clause in the certificate so that the authorized annual quantity of water for the junior water right, when combined with all senior water rights authorized to apply water to beneficial use on the common authorized place of use, does not exceed either of the following standards:

(1) The annual quantity of water reasonable for the type of beneficial use made of the water; and

(2) the total annual quantity of water legally diverted by all water rights to the common authorized place of use during any one calendar year during the perfection period of the junior water right.

(c) The limitation clause on the junior water right being certified shall not restrict the total annual quantity authorized to be diverted to the authorized place of use to less than the total annual quantity of water authorized by the senior water right or water rights for beneficial use on the common authorized place of use.

(d) The owner whose water right is being certified shall be sent a draft certificate showing the maximum rate of diversion and maximum annual quantity of water that are being proposed for the certificate. The water right

owner shall be given a reasonable time period of no fewer than 30 days to comment on the draft certificate and to provide any additional information concerning the water diverted and applied to beneficial use on the authorized place of use during the perfection period in accordance with the terms, conditions, and limitations of the approval of application, and all other water rights and approvals of applications authorized to divert water to the common authorized place of use.

(e) In certifying a water right with a priority date before the effective date of this regulation, the provisions of subsection (a) shall be followed to the extent possible. If sufficient information is not available to make the determination described in subsection (a), the best information available shall be utilized by the chief engineer to determine the quantity of water applied to the authorized place of use during any one calendar year during the perfection period under the authority of the approval of application being certified and all other water rights. The standard set forth in paragraph (b)(1) shall be applied, even if sufficient information is not available to make the determination described in subsection (a). (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 82a-713, and K.S.A. 1999 Supp. 82a-714(a); effective Sept. 22, 2000.)

**5-3-4. Construction of diversion works.** (a) A reasonable period of time for construction of diversion works shall be not less than one full year following the approval of the application to appropriate water. If a person demonstrates that a reasonable long-term schedule for development of diversion works or other infrastructure is in the public interest, that information shall be taken into consideration by the chief engineer in determining a reasonable period of time for the construction of diversion works.

(b) For good cause shown by the applicant, a reasonable extension of time to construct the diversion works shall be allowed by the chief engineer, if the request for extension is filed pursuant to the requirements of K.A.R. 5-3-7 and is accompanied by the statutorily required filing fee.

(c) If the total time allowed to construct the diversion works has been more than 16 months and fewer than 24 months, an extension of time shall be granted by the chief engineer only if the applicant meets the following criteria:

- (1) Demonstrates good cause;
- (2) provides a copy of a contract with the well driller or other information substantiating the intent to proceed to complete the construction of the diversion works in an expeditious manner;
- (3) files the request for extension pursuant to the requirements of K.A.R. 5-3-7; and
- (4) submits the statutorily required filing fee.

(d) If the total time allowed to construct the diversion works equals or exceeds 24 months, an extension of time may be granted only if the applicant demonstrates to the chief engineer that circumstances beyond the control of the applicant necessitate the extension of time.

(e)(1) The applicant shall file a notice of completion of diversion works and the statutorily required field inspection fee with the chief engineer no later than March 1

following the deadline to construct the diversion works. The notice of completion of diversion works shall be filed on a form prescribed by the chief engineer.

(2) If a water flowmeter has been required by the chief engineer as a condition of the permit, the applicant shall also file a notice of completion of installation of a water flowmeter on a form prescribed by the chief engineer. This form shall be due at the same time that the notice of completion of diversion works form is due.

(f)(1) The applicant shall be sent a notice by the chief engineer giving the applicant 30 days to show that the diversion works were completed within the time allowed in accordance with the terms, conditions, and limitations of the approval of application and to pay the field inspection fee, if it has not already been paid, under either of the following conditions:

(A) A notice of completion of diversion works has not been completely and timely filed with the chief engineer.

(B) Information on file in the office of the chief engineer indicates that the diversion works were not properly constructed within the time allowed to construct the diversion works, including any authorized extensions of time.

(2) The permit shall be dismissed and its priority forfeited if the applicant fails to perform the following:

(A) To demonstrate that the diversion works were completed within the time allowed by the approval of application; and

(B) to pay the statutorily required field inspection fee, if it has not already been paid. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-712, K.S.A. 82a-713, and K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)

**5-3-6. Perfection of a water right.** (a) Except for municipal use, a reasonable period of time to perfect a water right shall be no fewer than four full calendar years following the deadline for construction of the diversion works. If the time to construct the diversion works is extended, the perfection period shall be extended to no fewer than four full calendar years beyond the final deadline to construct the diversion works, unless the owner of the approval of application objects.

(b) A reasonable time to perfect a water right for municipal use shall be no fewer than 20 full calendar years plus the remainder of the calendar year in which the application was approved. Each holder of a permit for municipal use of water shall submit a progress report to the chief engineer 10 full calendar years after the permit was issued. The report shall be submitted on a form prescribed by the chief engineer. The report shall meet the following conditions:

(1) Compare the annual water use projected in the original application with the actual annual water use for the prior 10 years; and

(2) document compliance with an approved conservation plan, if one had been required. If the 10-year review by the chief engineer shows that actual annual water use is significantly less than originally projected, the holder shall revise the estimated annual water use for the next 10 years. If it is in the public interest, the total authorized annual quantity of water for the next 10 years shall be reduced by the chief engineer to a reasonable annual

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quantity based on the municipal user's revised estimates of annual water use for the next 10 years. If the 10-year review indicates that a required conservation plan was not being complied with or that the conservation plan does not meet the Kansas water office's conservation guidelines for municipal users, as in effect at the time of the review, an order requiring any of the following shall be issued by the chief engineer:

(A) That the conservation plan be amended to comply with current guidelines;

(B) that the user comply with the provisions of the approved conservation plan; or

(C) both of the requirements in paragraphs (b) (2) (A) and (B).

(c) If the applicant demonstrates to the chief engineer that a longer perfection period is necessary to justify purchase or construction of infrastructure related to the diversion, treatment, or distribution of water that actually is being built, the original time to perfect a water right for municipal use or other public entity, including a utility, may be extended for a period not to exceed a total time to perfect of 40 years.

(d) For good cause shown by the applicant, a reasonable extension of time to perfect a water right shall be allowed by the chief engineer if the request for extension is filed pursuant to the terms of K.A.R. 5-3-7 and is accompanied by the statutorily required filing fee.

(e) If water use reports and other information on file in the office of the chief engineer indicate that no water was applied to the authorized beneficial use during the time allowed to perfect the water right, including any authorized extensions of time, the owner of the approval of application as shown in the records of the chief engineer shall be sent a notice by the chief engineer, giving the owner 30 days to show that water was put to beneficial use within the terms, conditions, and limitations of the permit during the perfection period. If the owner fails to demonstrate that water was so used, the permit shall be dismissed and its priority forfeited. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-707(e), K.S.A. 82a-712, K.S.A. 82a-713, and K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)

#### **5-8-7. Extensions of time to perfect a water right.**

(a) For all beneficial uses of water, except municipal use, the total time to perfect the water right, including extensions of time, shall not exceed 10 years after the calendar year in which the diversion works were required to be completed unless one or more of the following "extenuating circumstances" exist.

(b) "Extenuating circumstances" shall include the following:

(1) Circumstances beyond the control of the owner of the approval of application that have unduly restricted the owner's ability to perfect the water right;

(2) actions or omissions by the chief engineer that make it necessary to extend the time to perfect; and

(3) for applications with a priority before May 1, 1978, the unavailability or lack of credibility of records of water use, crops grown, and the number and location of acres actually irrigated, and other relevant information during the perfection period, but other records or information is

available for a period after the perfection period and would reasonably represent the application of water to beneficial use in accordance with the terms, conditions, and limitations of the permit.

(c) The burden shall be on the owner of the approval of application to document the extenuating circumstances described in subsection (b) and justify to the chief engineer the need for the extension of time to perfect the water right.

(d)(1) Extensions of time to perfect for applications with a priority before May 1, 1978 may be granted in any reasonable increment of years. The total amount of time allowed to perfect the water right shall be reasonable.

(2) Extensions of time to perfect a water right for non-municipal use, with a priority on or after May 1, 1978, may be granted in any increment of time until the total time to perfect equals 10 years. After the total time allowed to perfect the water right equals 10 years, extensions of time shall be granted in one-year increments only.

(e) Extensions of the time to perfect a water right for municipal use of water that can be justified shall be extended in five-year increments or less after the original 20-year time period to perfect the water right has elapsed. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-712 and 82a-713; effective Sept. 22, 2000.)

**5-8-8. Owner required to allow chief engineer to conduct timely field inspection for certification.** (a) In order to allow the chief engineer to conduct a timely field inspection to certify a water right, the owner of an approval of application shall perform the following:

(1) Operate the diversion works in the same manner that they were operated when water was applied to beneficial use during the perfection period, so that an accurate rate-of-diversion test can be conducted by the chief engineer;

(2) allow the chief engineer access to the diversion works and the authorized place of use for the purpose of making the field inspection; and

(3) allow, cooperate with, and assist the chief engineer in any other ways necessary for the chief engineer to conduct the field inspection.

(b) The owner of the approval of application shall allow the field inspection to be conducted within 365 days after the chief engineer has sent the owner of the approval of application a restricted letter requesting that the chief engineer be allowed to conduct a field inspection. If the owner does not cooperate with, assist, and allow the chief engineer to conduct a field inspection, without good cause, within one year after the restricted letter is sent by the chief engineer, an order shall be issued by the chief engineer requiring the owner of the approval of application to comply with the terms of the restricted letter. The order shall also be sent by restricted mail. If the owner fails to comply with the order of the chief engineer, an action shall be brought by the chief engineer to enforce the order of the chief engineer pursuant to the act for judicial review, and civil enforcement of agency actions, K.S.A. 77-624 et seq. and amendments thereto. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-714; effective Sept. 22, 2000.)



### Article 9.—TEMPORARY PERMITS

**5-9-11. Documentation of access to source of water supply for temporary permit.** Before approval of a temporary permit, the applicant shall show that permission for access to the source of water supply has been obtained from the landowner or landowners of the property where the proposed point of diversion will be located. If permission is granted in an oil and gas lease, it shall be sufficient for the applicant to indicate this on the application for a temporary permit to appropriate water. If the water is to be obtained from land not covered by the oil and gas lease, then the permission of the landowner or landowners shall be adequately documented. (Authorized by and implementing K.S.A. 82a-727; effective Sept. 22, 2000.)

### Article 12.—AQUIFER STORAGE AND RECOVERY

#### 5-12-1. Aquifer storage and recovery permitting.

(a) An operator may store water in an aquifer storage and recovery system under a permit to appropriate water for artificial recharge if the water appropriated is source water. The requirements of article 12 of the rules and regulations adopted by the Kansas department of agriculture, division of water resources are in addition to any requirements of the Kansas department of health and environment concerning underground injection wells, including article 46 of the rules and regulations adopted by the Kansas department of health and environment.

(b) Each application for a permit to appropriate water for artificial recharge shall describe the horizontal and vertical extent of the basin storage area in which the source water will be stored.

(1) The horizontal extent shall be determined by a closed boundary within which the recharge system used to store the water will be physically located. The recharge system may include recharge pits, recharge trenches, recharge wells, or other similar systems that cause source water to enter the storage volume of the basin storage area, either by gravity flow or by injection. The basin storage area may be subdivided into smaller areas representative of the areas that may be recharged by the individual recharge systems.

(2) The vertical extent shall be defined by a minimum and a maximum index water level for the basin recharge storage area, or for each subdivided area within the basin storage area if the basin storage area is subdivided. The minimum index water level shall be the lowest water level within the basin storage area, or smaller subdivided area if the basin storage area is subdivided, that occurred within the 10 years before the filing of the application for a permit to appropriate water, or a period of time longer than 10 years demonstrated by the applicant to reflect the lowest water level. If the basin storage area is subdivided, measurements from the same year shall be used to determine the minimum index water level for each subdivision. The maximum index water level shall represent the maximum storage potential for the basin storage area.

(c) An application for a permit to appropriate water for artificial recharge shall set forth the maximum annual quantity and maximum rate of diversion of source water.

(d) (1) Each application for a permit to appropriate water for artificial recharge shall include a methodology for

accounting for water stored in a basin storage area both on an annual basis and on a cumulative basis so that recharge credits can be calculated. If more than one application for a permit to appropriate water for artificial recharge relates to the same aquifer storage and recovery system, each application shall use the same methodology for accounting for water stored in the basin storage area. The accounting of the water balance of all water entering and leaving the basin storage area shall be determined by using sound engineering methods based on actual measurements, generally accepted engineering methodology, or a combination of both.

(2) Approval of any application for a permit to appropriate water for artificial recharge shall be contingent upon the chief engineer's approval of the method for accounting for the basin storage area.

(e) An applicant for recovery of water stored by the holder of a permit to appropriate water for artificial recharge to store water in a basin storage area shall obtain a permit separate from the aquifer storage permit to appropriate water for beneficial use for each well used to recover the water stored. The maximum annual quantity of water that may be appropriated for this purpose shall be no more than the maximum cumulative recharge credits available to the operator of the aquifer storage and recovery system. These credits shall be determined by the accounting methodology approved under a permit to appropriate water for artificial recharge pertaining to the aquifer storage and recovery system. In determining whether diversion of the annual quantity impairs other water rights, the following data may be considered by the chief engineer:

(1) The maximum storage volume available in the basin storage area;

(2) the spatial distribution of recharge and withdrawal systems;

(3) the maximum rate of diversion at which the water will be withdrawn; and

(4) any other relevant information.

Recharge credits may be accumulated over more than one year, and any amount of recharge credits available may be withdrawn in accordance with the permit if the withdrawal does not impair other water rights.

(f) The approval of application, if the water to be diverted is the water artificially recharged into the basin storage area, shall be conditioned upon the following:

(1) Generally accepted engineering methodology;

(2) a maximum annual quantity that does not exceed the recharge credits; and

(3) an annual reporting that complies with K.A.R. 5-12-3. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711 and K.S.A. 82a-712; effective Sept. 22, 2000.)

#### 5-12-2. Aquifer storage and recovery accounting.

(a) In addition to annual water use reporting requirements pursuant to K.S.A. 82a-732, and amendments thereto, on June 1 of each year the permit holder of an aquifer storage or recovery system shall report an accounting of water in the basin storage area to the chief engineer and to any groundwater management district

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identified in subsection (c) of this regulation. The annual report for the preceding calendar year shall account for all water entering and leaving the basin storage area and shall specifically compute the amount of recharge credits held in the basin storage area.

(b) The report shall be in the form prescribed by the chief engineer and shall address the items in the water balance for the basin storage area, which may include the following amounts:

- (1) Natural and artificial recharge;
- (2) groundwater inflow and outflow;
- (3) evaporation and transpiration;
- (4) groundwater water diversions from all nondomestic wells;
- (5) infiltration from streams;
- (6) groundwater discharge to streams;
- (7) the calculated recharge credits; and
- (8) any other information that in the opinion of the chief engineer is pertinent to the basin storage and surrounding areas.

The annual accounting shall specifically take into account the amounts of natural recharge, artificial recharge, groundwater inflow, groundwater outflow, evapotranspiration, and groundwater pumpage. Groundwater pumpage shall include recharge credits withdrawn as well as pumpage from all nondomestic wells in the basin storage area. The annual accounting shall include any additional items within a basin storage area that would be necessary to determine the amount of recharge credit available for recovery.

(c) If any part of the basin storage area is within the boundaries of a groundwater management district, the permit holder of any aquifer storage or recovery system shall furnish a copy of the annual report to the district board for comments by June 1 of each year.

(d) If a groundwater management district receives an annual report, the district may provide comments to the chief engineer if the comments are submitted to the chief engineer within 30 days of the district's receipt of the report identified in subsection (c) of this regulation.

(e) The permit holder may be required by the chief engineer to submit additional information pertinent to the system. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711 and K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-12-3. Hearings.** (a) A hearing shall be held by the chief engineer in the general vicinity where an applicant proposes aquifer storage and recovery before approval of any such application for aquifer storage and recovery.

(b) If any part of a proposed basin storage area is within the boundaries of a groundwater management district, the hearing required by subsection (a) of this regulation shall be held within the groundwater management district. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711 and K.S.A. 82a-712; effective Sept. 22, 2000.)

**5-12-4. Aquifer storage and recovery systems in a groundwater management district.** A groundwater management district may recommend rules and regulations pertaining to monitoring and accounting requirements for that portion of the basin storage area that falls within

the district's boundaries. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711, K.S.A. 82a-712, and K.S.A. 82a-1028(o); effective Sept. 22, 2000.)

#### Article 13.—SAND AND GRAVEL PIT OPERATIONS

**5-13-1. Notice of intent to open or expand a sand and gravel pit operation.** Each operator desiring to open or expand a sand and gravel pit operation shall file a notice of intent to open or expand a sand and gravel pit operation on a form prescribed by the chief engineer before opening or expanding the sand and gravel pit operation.

The following information shall be included on the form:

- (a) The legal description of the sand and gravel pit operation;
- (b) the date the project began or will begin;
- (c) the number of acres of the groundwater table that will be exposed by the project at the time active mining ceases;
- (d) a legal description and a map showing the location of the groundwater that will be exposed at the time active mining ceases;
- (e) the year the pit excavation is estimated to be completed;
- (f) measures that will be used to protect the area groundwater supply from pollution; and
- (g) any other pertinent information that may be required by the chief engineer to understand the nature of the proposed project and to ensure that the provisions of K.S.A. 82a-734, and amendments thereto, and any regulations promulgated thereunder, are being complied with. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-721 and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-2. Determination of "substantially adverse impact on the area groundwater supply."** (a) A sand and gravel operation shall be deemed to cause a "substantially adverse impact on the area groundwater supply," as provided in K.S.A. 82a-734 (b) and amendments thereto, if the sand and gravel pit operation is opened or expanded after the effective date of this regulation in any township that has an average annual potential net evaporation greater than 18 inches per year as determined from K.A.R. 5-6-3.

(b) In any township that has an average annual potential net evaporation of 18 or fewer inches per year, as determined from K.A.R. 5-6-3, the opening or expansion of a sand and gravel pit operation, shall be deemed to not cause a "substantially adverse impact on the area groundwater supply," as provided in K.S.A. 82a-734 and amendments thereto, unless the chief engineer can demonstrate that the project will cause one or more of the following:

- (1) A direct impairment to a groundwater approval of application or water right;
- (2) an unreasonable deterioration of the groundwater quality;
- (3) an unreasonable raising or lowering of the static water level; or
- (4) prevention of any waters of the state from moving to a person having a prior right to use these waters. (Au-

thorized by K.S.A. 82a-706a; implementing K.S.A. 82a-721 and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-3. Determination of when groundwater evaporation is a beneficial use.** On and after the effective date of this regulation, whenever the opening or expansion of a sand and gravel operation is considered to cause a substantially adverse impact on the area groundwater supply pursuant to K.A.R. 5-13-2, the evaporation caused shall be considered to be a beneficial use, and the operator shall be required to receive an approval of application, or approval of an application for change, pursuant to K.S.A. 82a-701 et seq. and amendments thereto, before exposing the groundwater table to evaporation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-711, K.S.A. 82a-721, and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-4. Exemption.** (a) To the extent that groundwater evaporation causes a substantially adverse impact to the area groundwater supply pursuant to K.A.R. 5-13-2, a new application to appropriate the groundwater evaporation caused by the project shall be exempt from meeting the safe yield, allowable appropriation, or similar types of regulations adopted by the chief engineer. This exemption shall be granted if the operator meets all of the criteria in subsection (b) because exempting the quantity of water that has been, or will be, evaporated by exposing the groundwater table beneath the proven reserves will not prejudicially and unreasonably affect the public interest and will not impair any existing water right.

(b) Except as set forth in subsection (e), in order to qualify for this exemption, the operator shall show that on December 31, 1999, all of the following conditions were met:

(1) The operator had an active, existing sand and gravel mining operation.

(2) If required, the operator had a valid surface-mining license issued pursuant to the surface-mining land conservation and reclamation act, K.S.A. 49-601 et seq., and amendments thereto.

(3) If required, the operator had made a timely application for a hydraulic dredging permit or had received a hydraulic dredging permit issued pursuant to the Kansas water appropriation act.

(4) The operator had filed the water use reports required by, and paid any civil fines assessed by the chief engineer pursuant to K.S.A. 82a-732, and amendments thereto.

(5) The operator had paid the water protection fees required by K.S.A. 82a-954, and amendments thereto.

(6) To the extent necessary to physically operate, the operator had acquired all local permits and local zoning approvals.

(7) The operator had purchased, leased, or otherwise acquired legal control over proven sand and gravel reserves.

(8) The operator had filed an application to appropriate water or filed a notice of intent to open or expand a sand and gravel pit operation with the chief engineer when required by K.S.A. 82a-734(a), and amendments thereto.

(c) It shall be the burden of the operator to show that the operator meets the requirements of subsection (b) by filing the necessary information or documentation with the chief engineer on or before December 31, 2001. An extension of time may be granted by the chief engineer for good cause if the request for extension of time is filed by the operator with the chief engineer before December 31, 2001.

(d) To the extent that the operator meets the requirements of subsection (b) above, an application to appropriate water for evaporation of the groundwater caused by exposing the groundwater table shall be exempt from complying with safe yield, allowable appropriation, and similar types of regulations adopted by the chief engineer. This exemption shall apply to all the evaporation caused by exposing the groundwater table up to the areal extent of the proven reserves that existed on December 31, 1999.

(e) If, on the effective date of this regulation, an operator was in the process of establishing a replacement operation for an active, existing sand and gravel pit operation, an exemption shall be allowed by the chief engineer for the proposed replacement operation according to subsection (d) on terms, conditions and limitations that will neither cause impairment of existing water rights nor prejudicially and unreasonably affect the public interest if all of the following criteria are met:

(1) The proposed replacement sand and gravel operation is located outside the boundaries of all groundwater management districts and intensive groundwater use control areas.

(2) The geocenter of the proposed replacement operation is located within two miles of the geocenter of the existing, active operation.

(3) The proposed replacement operation met the provisions of paragraphs (b)(1) through (b)(6) of this regulation on December 31, 1999.

(4) The proposed replacement project meets the requirements of paragraphs (b) (7) and (8) on the effective date of this regulation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-721, K.S.A. 1999 Supp. 82a-1904, and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-5. Approval of pit operations that are opened or expanded after the effective date of this regulation.** Except as set forth in K.A.R. 5-13-4, pit operations that are excavated or expanded after the effective date of this regulation and that have a substantial adverse impact on the area groundwater supply shall meet one of the following conditions:

(a) Receive prior approval of the chief engineer for a new permit to appropriate an annual quantity of water sufficient to offset the evaporation caused by exposing the groundwater table in a manner described in K.A.R. 5-13-7;

(b) acquire existing water rights and receive approval of the chief engineer to change the point of diversion, place of use, and the use made of water to authorize the water rights to be used for the project in a manner described in K.A.R. 5-13-7;

(c) acquire and take out of production sufficient water rights in the manner described in K.A.R. 5-13-7 to offset

(continued)

the net average annual evaporation caused by exposing the groundwater table; or

(d) any combination of the above. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-721 and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-6. Determination of the maximum rate of diversion and annual quantity of water.** The annual quantity of water, in acre-feet, required to be appropriated for evaporation caused by exposing the area groundwater table shall be determined by multiplying the exposed groundwater surface area of the project in acres by the potential net evaporation in inches, for Kansas, as found in K.A.R. 5-6-3, and dividing by 12. The rate of diversion shall be the natural rate of evaporation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-721 and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-7. Offsets for evaporation of groundwater.** The net average annual quantity of groundwater evaporation shall be authorized, accounted for, or offset in one or more of the following ways:

(a) An approval of application or water right currently authorizes the use of water at that pit location.

(b) A new approval of application authorizes the use of water at that pit location.

(c) Acceptable quality surface water that is legally and physically available for groundwater recharge is authorized to be diverted into the proposed project.

(d) Both of the following conditions are met:

(1) Water is made available by acquiring all, or a portion of, an existing water right to any of the following:

(A) Use surface water or groundwater, or both, that is hydraulically connected to a stream channel aquifer in which the project is located;

(B) use groundwater from an unconsolidated regional aquifer that is within a two-mile radius of the geocenter of the project that is the same unconsolidated regional aquifer in which the project is located, or a hydraulically connected aquifer; or

(C) use groundwater from an unconsolidated regional aquifer that is within a 3.5 mile radius of the geocenter of the project and is the same unconsolidated regional aquifer in which the project is located, or a hydraulically connected aquifer, if the operator can demonstrate to the chief engineer that sufficient water rights to offset the evaporation caused by the project cannot be acquired within a two-mile radius of the geocenter of the project after making reasonable and prudent efforts to find both proven reserves and water rights.

(2) The applicant demonstrates to the chief engineer that the acquired water right, or portion of it, will no longer be exercised by any of the following:

(A) Placing it in the custodial care of the state;

(B) placing it in a perpetual trust approved by the chief engineer; or

(C) restricting its future use in some other way that the chief engineer determines to be adequate to ensure that it will no longer be exercised.

(e) Diffused surface water is diverted into the project from inside a berm surrounding the project built to prevent unacceptable quality surface water from entering the groundwater table. The average annual amount of runoff

shall be determined from a map titled "figure 12. — mean annual runoff in Kansas," dated June 1982, published by the Kansas water office and hereby adopted by reference, unless the applicant demonstrates to the chief engineer, or the chief engineer has, better, more site-specific data.

(f) Any other water credit or offset that the chief engineer determines will adequately offset the groundwater evaporation caused by the pit operation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-721 and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-8. Offset calculations.** All of the following requirements shall apply with respect to an offset water right described in K.A.R. 5-13-7(d): (a) No physical diversion of the offset water right shall be required or allowed.

(b) The project shall receive credit for 100 percent of the net consumptive use of the water right used as an offset.

(c) Credit for acquisition of an existing surface water right shall be given for an equivalent quantity of water that is legally and physically available within the terms, conditions, and limitations of the surface water right at the location of the groundwater pit. The quantity of water available at the groundwater pit from the acquired surface water right shall be calculated by taking into account the following:

(1) Stream gains;

(2) stream losses;

(3) transit losses;

(4) water supplied from intervening tributaries; and

(5) water needed to satisfy senior surface water rights to the same source of supply.

(d) Credit for acquisition of a groundwater right with a point of diversion located in the same stream channel aquifer as the groundwater pit shall be given for either of the following:

(1) A groundwater right located within a two-mile radius of the groundwater pit; or

(2) a groundwater right in the same source of water supply with a point of diversion located more than two miles up gradient of the geocenter of the groundwater pit for the quantity of water legally and physically available under that groundwater right at its original point of diversion, minus the transit loss between the original groundwater point of diversion and the geocenter of the proposed pit. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-721 and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-9. Easements and covenants.** The applicant shall provide any easements or covenants, attached to or running with the land, that are necessary to document that the offset water acquired pursuant to K.A.R. 5-13-7 will continue to be legally available to offset the evaporation of groundwater. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-721 and K.S.A. 82a-734; effective Sept. 22, 2000.)

**5-13-10. Time to construct the diversion works for a sand and gravel pit operation.**

(a) As used in this regulation, "completion of diversion works" means that both of the following have occurred:

(1) All equipment necessary to begin to operate a sand and gravel operation, including the hydraulic dredge, has been installed.

(2) Sufficient overburden has been excavated to begin to expose the groundwater to evaporation.

(b) A reasonable time to construct the diversion works for a sand and gravel pit operation shall be not less than one full year following the approval of the application to appropriate water.

(c) For good cause shown by the applicant, a reasonable extension of time to construct the diversion works shall be allowed by the chief engineer if both of the following conditions are met:

(1) The request for extension is filed pursuant to the requirements of K.A.R. 5-3-7.

(2) The request for extension is accompanied by the statutorily required filing fee. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-712 and 82a-713; effective Sept. 22, 2000.)

**5-13-11. Time to perfect a water right for evaporation of groundwater.** (a) A reasonable time to perfect a water right for evaporation of groundwater caused by a sand and gravel pit operation shall be neither less than five calendar years plus the remainder of the calendar year in which the application was approved, nor more than 20 years plus the remainder of the calendar year in which the application was approved.

(b)(1) For good cause shown by the applicant, a reasonable extension of the time to perfect the water right shall be allowed by the chief engineer if both of the following conditions are met:

(A) The request is timely filed pursuant to the terms of K.A.R. 5-3-7.

(B) The request is accompanied by the statutorily required filing fee.

(2) The total time to perfect a water right shall not exceed 40 years. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-713; effective Sept. 22, 2000.)

#### Article 14.—ENFORCEMENT AND APPEALS

**5-14-1. Enforcement.** (a) Except as set forth in subsection (i), the procedure set forth below shall be followed whenever enforcement action is taken by the chief engineer after becoming aware that a person may be performing any of the following:

(1) Violating any provision of K.S.A. 82a-701 et seq., and amendments thereto;

(2) violating any provision of a regulation adopted pursuant to that act; or

(3) violating a term, condition, or limitation of an approval of application or water right.

(b) The alleged violation shall be investigated by the chief engineer.

(c) A written report of the investigation shall be prepared by the chief engineer. This report shall include any documents regarding the matter that were relied upon or prepared by the chief engineer. This report shall be made a part of the official record of the chief engineer. If an approval of application or a water right is involved, the report shall be made an official part of that file.

(d)(1) If the investigation shows that no violation has occurred or that enforcement action is not warranted, no further enforcement action shall be taken at that time.

(2) If the investigation determines that a violation has occurred, an order shall be issued by the chief engineer. The owner or owners of the approval of application or water right, as shown in the records of the chief engineer, shall be served by delivering a copy in person or sending a copy of the order by restricted mail. The order shall specify the following:

(A) What the violation is;

(B) what actions are necessary to correct the violation;

(C) what a reasonable time is in order to correct the violation. Extensions of time to correct a violation may be granted by the chief engineer if good cause is shown by the violator or owner;

(D) that the order will become effective immediately; and

(E) that a hearing may be requested within 15 days of the issuance of the order. The request for a hearing may include a request for a stay of the order. If the person shows good cause why a stay should be granted, a stay may be granted by the chief engineer.

(e) If the violation is corrected within the time specified by the chief engineer, the violator shall notify the chief engineer. An inspection shall be conducted by the chief engineer to determine if the violation has been corrected. If the violation has been corrected, the diversion of water may continue within the terms, conditions, and limitations of the approval of application or water right.

(f) If the violation is not corrected within the time specified by the chief engineer, an order requiring that unauthorized or illegal diversion of water cease until the violation is corrected shall be issued by the chief engineer.

(g) If the violator ceases diversion of water and then corrects the violation, the violator shall notify the chief engineer when the violation is corrected. The diversion works and the authorized place of use, as appropriate, shall be inspected by the chief engineer to determine if the violation has been corrected. If the chief engineer determines that the violation has been corrected, the order prohibiting diversion of water shall be rescinded by the chief engineer as soon as possible. When the owner or violator receives notice from the chief engineer that the order prohibiting the diversion of water has been rescinded, the diversion of water may recommence.

(h) (1) Any of the actions listed in paragraph (h) (2) may be taken by the chief engineer if the violator performs any of the following acts and fails to cease the diversion of water as ordered by the chief engineer:

(A) Violates any provision of K.S.A. 82a-701 et seq., and amendments thereto;

(B) violates any provision of a regulation adopted pursuant to that act; or

(C) violates a term, condition, or limitation of an approval of application or a water right.

(2) If the violator performs any act listed in paragraph (h)(1), any of the following actions may be taken by the chief engineer:

(A) Bring an action to enforce the orders of the chief engineer pursuant to the act for judicial review and civil enforcement of agency actions, K.S.A. 77-624 et seq., and amendments thereto;

(B) request the attorney general to bring an action in the name of the state of Kansas;

(continued)

(C) request that criminal proceedings be brought pursuant to K.S.A. 82a-728, and amendments thereto;

(D) enter into a consent order with the violator specifying the remedial actions that shall be taken by the violator;

(E) take any other legally permissible enforcement action; or

(F) any combination of the above actions.

(i) The provisions of this regulation shall not apply to any actions taken by the chief engineer pursuant to K.S.A. 82a-706b, and amendments thereto, to enforce water right priorities and to prevent direct impairment by either of the following:

(1) Junior water rights; or

(2) illegal diversions of water.

(j) After the violator has been issued an order as specified in subsection (f), the violator may request an administrative hearing before the chief engineer in accordance with the provisions of K.A.R. 5-14-2. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706, 82a-706b, 82a-706d, and 82a-728; effective Sept. 22, 2000.)

**5-14-2. Request for conference hearing.** (a) Each written request for a hearing of an order issued by the chief engineer according to K.A.R. 5-14-1 shall be served on the chief engineer within 15 days of the issuance of the order. The request for a hearing may include a request for a stay of the order. If the requester demonstrates good cause for a stay to the chief engineer, a stay of the order may be granted by the chief engineer.

(b) If a request for a hearing is not served on the chief engineer within 15 days after the order is issued by the chief engineer, the order shall become a final agency action as defined by K.S.A. 77-607, and amendments thereto.

(c) If a request for a hearing is filed with the chief engineer within 15 days of the issuance of an order, a conference adjudicative hearing shall be held by the chief engineer.

(d) A conference hearing shall be an informal proceeding conducted according to the following criteria:

(1) The hearing officer shall regulate the course of a conference proceeding.

(2) Only parties may testify and present written exhibits.

(3) Only parties may offer comments on the issues.

(4) The hearing officer may conduct all or part of the hearing by telephone, or other electronic means, if each participant in the hearing has the opportunity to participate in the entire proceeding while it is taking place.

(5) The hearing shall be recorded at the agency's expense.

(6) Any party, at the party's expense and subject to any reasonable conditions that the chief engineer may establish, may cause a person other than the chief engineer to prepare a transcript from the chief engineer's recording or cause additional recordings to be made during the hearing.

(e) After the conference adjudicative hearing, or completion of a full adjudicative hearing if the conference hearing was converted to a full hearing, a final agency action, as defined by K.S.A. 77-607, and amendments

thereto, shall be issued by the chief engineer. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706 and K.S.A. 82a-706b; effective Sept. 22, 2000.)

**5-14-3. Administrative appeal to the secretary of agriculture.** (a) Except as set forth in subsection (f), a summary order shall be issued by the chief engineer in accordance with the provisions of K.S.A. 77-537 through 77-542, and amendments thereto, for the following types of actions:

(1) Approval or rejection of an application to change the place of use, the point of diversion, the use made of water, or any combination, filed pursuant to K.S.A. 82a-708b, and amendments thereto;

(2) approval of an application as filed, approval of a smaller maximum annual quantity of water than requested, approval with conditions necessary to protect the public interest, or disapproval of an application to appropriate water for beneficial use filed pursuant to K.S.A. 82-711, and amendments thereto; and

(3) abandonment and termination of a water right pursuant to K.S.A. 82a-718, and amendments thereto.

(b) If a request for a hearing is not filed with the chief engineer within 15 days after issuance of the summary order by the chief engineer, the order shall become final.

(c) If a request for a hearing is filed with the chief engineer within 15 days, a conference adjudicative hearing shall be held by the chief engineer in accordance with the provisions of K.S.A. 77-533 through K.S.A. 77-535, and amendments thereto.

(d) After the conference adjudicative hearing, an initial order shall be issued by the chief engineer in accordance with the provisions of K.S.A. 77-526, and amendments thereto.

(e) A petition for review of the initial order shall be filed with the secretary of agriculture in accordance with the provisions of K.S.A. 77-527, and amendments thereto, within 15 days of the issuance of the initial order by the chief engineer.

(f) A hearing may be held by the chief engineer in accordance with K.A.R. 5-3-4a before processing a new application to appropriate water if the chief engineer determines that one of the following conditions exists:

(1) It is in the public interest.

(2) A person demonstrates to the chief engineer that approval of the application may cause impairment of senior approvals of applications or water rights.

If the chief engineer holds a hearing before processing a new application to appropriate water, an initial order shall be issued by the chief engineer. A petition for review of the initial order shall be filed in accordance with the provisions of subsection (e) of this regulation. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-708b, K.S.A. 82a-709, K.S.A. 1999 Supp. 82a-711, K.S.A. 1999 Supp. 82a-718, K.S.A. 1999 Supp. 82a-1038, and K.S.A. 1999 Supp. 82a-1901; effective Sept. 22, 2000.)

**5-14-4. Appeal of the failure of the chief engineer to timely issue a certificate of appropriation.** (a) The time period specified in K.S.A. 82a-714(c), and amendments thereto, shall begin when the time authorized to perfect the water right, including any authorized extensions of time, expires.

(b) If the chief engineer fails to issue a certificate of appropriation within the time limit specified by K.S.A. 82a-714(c) and amendments thereto, the water right owner may file a request for review with the secretary of agriculture pursuant to K.S.A. 82a-1901, and amendments thereto, within 15 days of the expiration of the time period specified in K.S.A. 82a-714(c) and amendments thereto. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-714 and K.S.A. 1999 Supp. 82a-1901; effective Sept. 22, 2000.)

**5-14-5. Conditions of a request for a conference hearing.** (a) Any request for a conference hearing before the chief engineer shall meet the following conditions:

(1) Be in writing and be served on the chief engineer within 15 days of the issuance of the summary order;

(2) clearly admit, deny, or explain each of the findings of facts and conclusions of law in the summary order;

(3) identify any facts and conclusions of law that the person disputes and intends to place at issue; and

(4) state any other defenses and the bases for those defenses.

(b) If the person states that the person has no knowledge of a particular factual allegation, that allegation shall be deemed denied in the request. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706 and K.S.A. 82a-706b; effective Sept. 22, 2000.)

**5-14-6. Informal settlement.** At any time during the proceedings conducted under K.A.R. 5-14-2, K.A.R. 5-14-3, or K.A.R. 5-14-4, the alleged violator may request a settlement conference. The request shall be in writing and shall be served on the chief engineer on behalf of the alleged violator. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1999 Supp. 82a-1901; effective Sept. 22, 2000.)

**5-14-7. Conversion of a conference hearing.** (a) At any point during a conference hearing being conducted according to K.A.R. 5-14-2, the conference hearing may be converted by the chief engineer to a full adjudicative hearing to be heard by the chief engineer.

(b) The conversion of a conference hearing to a full adjudicative hearing may be effected only upon providing notice to all parties to the original proceedings.

(c) The record of the conference hearing may be used in the full adjudicative hearing.

(d) After a conference hearing is converted to a full adjudicative hearing, the hearing officer shall perform the following:

(1) Give any additional notice to parties or other persons necessary to satisfy the requirements of a full adjudicative hearing; and

(2) conduct any additional proceedings necessary to satisfy the requirements of a full adjudicative hearing.

(e) If the conference hearing is converted to a full adjudicative hearing, the full adjudicative hearing shall be conducted according to the following criteria:

(1) The hearing officer shall regulate the course of the proceedings.

(2) The parties may testify and present exhibits.

(3) The hearing officer may allow nonparties an opportunity to present oral or written statements and exhibits.

(4) All testimony shall be given under oath.

(5) To the extent necessary for full disclosure of all relevant facts and issues, the hearing officer shall afford to all parties the opportunity to respond, present evidence and arguments, conduct cross-examination, and submit rebuttal evidence.

(6) The hearing officer may conduct all or part of the hearing by telephone or other electronic means, if each party in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(7) The hearing shall be recorded at the agency's expense.

(8) Any party, at that party's expense and subject to any reasonable conditions that the state agency may establish, may cause a person other than the state agency to prepare a transcript from the state agency's recording or cause additional recordings to be made during the hearing. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706 and 82a-706b; effective Sept. 22, 2000.)

#### Article 21.—WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT NO. 1

**5-21-4. Safe yield.** (a) Except as set forth in subsection (c), the district shall be closed to further new appropriations of water in all areas where the total saturated thickness of the unconsolidated aquifer, commonly known as the Ogallala, meets either of these criteria:

(1) Has been depleted by 15 percent or more since 1950, as determined according to K.A.R. 5-21-8; or

(2) is less than 40 feet thick, as determined according to K.A.R. 5-21-9.

(b) In the rest of the district, the approval of each application for a permit to appropriate water for a beneficial use, except as set forth in subsection (c), from the Ogallala aquifer, and the approval of each application for a change in the point of diversion if the diversion works have not been completed under the original approved application, shall be subject to the following criteria:

(1) The proposed appropriation, when added to the vested rights, prior appropriation rights, and earlier priority applications, shall not exceed the allowable safe yield amount for the area included within a two-mile-radius circle, which is approximately 8,042 acres, of the proposed well.

(2) For the purpose of analysis, all vested rights, certificates, permits, and prior unapproved applications shall be considered to be fully exercised, and all limitation clauses listed on permits to appropriate water and certificates shall be considered to be in force.

(3) In the case of an application for change in the point of diversion referred to in subsection (b), each application and water right 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 safe yield amount shall be calculated using the following formula:

$$Q = \frac{AR}{12}$$

Q = the allowable annual safe yield amount in acre-feet per year

(continued)

A = area of consideration, within a two-mile-radius circle, approximately 8,042 acres

R = average annual recharge of 0.5 inches per year

(5) If part of the radial area is located outside the district boundary, it shall be included in the depletion analysis only if the chief engineer determines that hydraulically connected groundwater exists in that portion of the area outside the district. A part of the area of consideration lying outside the state of Kansas shall not be included in the analysis.

(6) If wells authorized under a vested right, a certified water right, or a permit to appropriate water are divided by the circumference of the radial area, the authorized quantity of water shall be assigned to each well. If specific quantities are not authorized for each well, a proportional amount shall be assigned to each well.

(c) This regulation shall not apply to the following:

- (1) Domestic use;
- (2) temporary permits; and

(3) a new application filed to appropriate groundwater in any area of the district not closed by 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, meeting all of the following criteria:

(A) The sum of the annual quantity requested by the proposed appropriation and the total annual quantities authorized by prior permits allowed because of an exemption pursuant to this subsection does not exceed 15 acre-feet in a ½-mile-radius circle surrounding the proposed point of diversion.

(B) Well spacing criteria in the area have been met.

(C) 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.

(D) All other criteria for approving a new application to appropriate water at that location have been met.

(d) Exceptions to this regulation may be granted on an individual basis by recommendation by the board in conjunction with the approval of the chief engineer. The applicant may be required by the board to submit information necessary in order to make the determination. (Authorized by K.S.A. 82a-706a and K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective May 23, 1994; amended Sept. 22, 2000.)

**5-21-5. Battery of wells.** Within the boundaries of the district, an application for change of point of diversion from one well to a battery of wells shall not be approved unless the application meets the following criteria:

(a) The proposed points of diversion constitute a "battery of wells" as defined in K.A.R. 5-1-1.

(b) If the application for change has been filed pursuant to an appropriation right, the certificate shall be issued before approval of the application for change.

(c) The maximum annual quantity and maximum instantaneous diversion rate approved shall not exceed the maximum annual quantity and the maximum instantane-

ous diversion rate actually used during any of the three consecutive full calendar years before the application.

(d) The application meets the criteria for the approval of a new application. However, the wells comprising the battery of wells shall not be required to meet the well spacing requirements of K.A.R. 5-21-3 in relationship to each other. (Authorized by K.S.A. 82a-706a and K.S.A. 82a-1028(o); implementing K.A.R. 82a-1028(n); effective Sept. 22, 2000.)

**5-21-8. Percent change of saturated thickness.** The map titled "percent change in saturated thickness of the High Plains aquifer, west central Kansas, 1950 to average 1997-1999" and designated as the Kansas geological survey open file report 2000-15B, dated July 25, 2000, is hereby adopted by reference. (Authorized by K.S.A. 82a-706a and K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective Sept. 22, 2000.)

**5-21-9. Saturated thickness.** The map titled "saturated thickness of unconsolidated aquifer, west central Kansas average 1997-1999" and designated as the Kansas geological survey open file report 2000-15A, dated July 25, 2000, is hereby adopted by reference. (Authorized by K.S.A. 82a-706a and K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective Sept. 22, 2000.)

#### Article 23.—SOUTHWEST KANSAS GROUNDWATER MANAGEMENT DISTRICT NO. 3

**5-23-1. Definitions.** As used in these rules and regulations, by the southwest Kansas groundwater management district in the implementation of the groundwater management district act, and by the division of water resources in the administration of the Kansas water appropriation act and the groundwater management district act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation.

(a) "Alluvial aquifer" means an aquifer comprised of unconsolidated materials, usually gravel, sand, silt, and clay, that have been deposited by running water in comparatively recent geologic time.

(b) "Alluvium" means the gravel, sand, silt, and clay and similar unconsolidated material deposited in comparatively recent geologic time by a stream or other body of running water as a sorted or semisorted sediment in the bed of the stream or on its floodplain or delta.

(c) "Area of consideration" means a two-mile radial area measured in acres, with its center being the proposed well withdrawing water from the high plains aquifer, but limited to the area within the district's boundaries.

(d) "Confined aquifer" means an aquifer overlain and underlain by impermeable layers. Groundwater in a confined aquifer is normally under pressure greater than atmospheric pressure.

(e) "Consolidated aquifer" means an aquifer comprised of particles cemented by heat, pressure, or chemical reaction, or any combination of these, into a solid mass.

(f) "Dakota aquifer system" means the Dakota aquifer system as defined in K.A.R. 5-1-1.

(g) "High plains aquifer" means the aquifer comprised of the undifferentiated Pleistocene-age deposits, Quater-



nary loess, alluvium, dune sand, the Ogallala formation, and deeper aquifers that are in vertical or horizontal hydraulic contact with the Ogallala formation.

(h) "Hydraulic contact" means the absence of an impermeable layer between aquifers.

(i) "Ogallala aquifer" means the water-bearing portion of the Ogallala formation.

(j) "Ogallala formation" means the geological unit of the Miocene-Pliocene age, comprised of interbedded sorted clay, silt, sand, and gravel.

(k) "Section" means a one-mile square unit in the United States land survey, generally consisting of 640 acres.

(l) "Township" means a unit of territory in the United States land survey, generally six miles square, containing 36 mile-square sections.

(m) "Unconfined aquifer" means an aquifer in which the groundwater is exposed to the atmosphere through openings in the overlying materials. The upper surface of an unconfined aquifer is the water table.

(n) "Unconsolidated aquifer" means an aquifer comprised of deposits derived from the disintegration of consolidated materials, including clay, silt, sand, gravel, and caliche.

(o) "Water conservation plan" means a plan required by the chief engineer in accordance with the provisions of K.S.A. 82a-733 and K.S.A. 74-2608(c), and amendments thereto, and consistent with the water conservation planning guidelines and municipal water conservation plan guidelines adopted by the Kansas water office.

(p) "Water table" means the top of the saturated zone of an unconfined aquifer. It is the upper surface of the underground materials where particle pore space is filled with water. The water is at atmospheric pressure.

(q) "Well" means any artificial excavation that is drilled, cored, bored, washed, driven, dug, or otherwise constructed when 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. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective May 1, 1981; amended May 1, 1985; amended Sept. 22, 2000.)

**5-23-3. Minimum well spacing requirements: high plains aquifer.** (a) Unless a well is being replaced within 300 feet of the currently authorized point of diversion, the minimum horizontal distance between each proposed nontemporary, nondomestic well and all other senior nontemporary, nondomestic wells diverting water from the high plains aquifer shall be determined from the following schedule. The minimum well spacing shall be based on the maximum annual quantity of water in acre-feet either authorized and requested for the proposed well, or authorized and requested by a senior application, permit, or water right for the nontemporary, nondomestic well to which the spacing is being measured, whichever is greater.

Quantity per well (acre-feet per year)	Minimum well spacing requirement
15 or less	660 feet
16 - 200	1,300 feet
201 - 300	1,600 feet
301 - 400	1,900 feet
401 - 500	2,100 feet
more than 500	2,300 feet

(b) The location of a well or wells on an application for approval to change the point of diversion under an existing water right shall be no more than 2,640 feet from the currently authorized and completed point of diversion and shall meet either of the following conditions:

(1) Not decrease the distance to other wells or authorized well locations by more than 300 feet; or

(2) meet the minimum well spacing requirements.

(c) No application for approval to change the point of diversion under an approved application for which the original well has not been drilled shall be approved if the location of the proposed point of diversion decreases the distance from the approved location to any other existing wells to less than the spacing requirement for new applications.

(d) Each nondomestic, nontemporary well shall be located a minimum of 660 feet from all domestic wells with a priority earlier than the date the change application was filed, except those owned by the applicant.

(e) In the case of a battery of wells, as defined in K.A.R. 5-1-1, the minimum horizontal distance shall be measured from the geographic center of the wells comprising the battery.

(f) The total annual quantity per well shall be the sum of all of the quantities authorized or requested by any water rights, permits, or applications requesting or authorizing that well as a point of diversion. (Authorized by K.S.A. 82a-706a and 82a-1028(o); implementing K.S.A. 82a-1028(n); effective May 1, 1981; amended May 1, 1985; amended August 28, 1989; amended September 30, 1991; amended Sept. 22, 2000.)

**5-23-3a. Minimum well spacing requirements: confined aquifers.** (a) The minimum horizontal distance between each proposed nontemporary, nondomestic well and all other senior nontemporary, nondomestic wells diverting water from a confined aquifer shall be determined based on the following schedule. The minimum well spacing shall be based on the maximum annual quantity of water in acre-feet either requested by the proposed well, or authorized or requested by a senior applicant, permit, or water right for the nontemporary, nondomestic well to which the spacing is being measured, whichever is greater.

Quantity per well (acre-feet per year)	Minimum well spacing requirement	Required distance from hydraulic contact point
15 or less	660 feet	None
16 to 25	2,300 feet	None
26 to 100	5,280 feet	2 miles
More than 100	10,560 feet	5 miles

The minimum horizontal distance between a nontemporary, nondomestic well withdrawing water from a confined aquifer and a well withdrawing water from an unconfined aquifer shall be 300 feet.

Each nondomestic, nontemporary well shall be located a minimum of 660 feet from all earlier priority domestic wells, except those owned by the applicant.

(b) A proposed nontemporary, nondomestic well shall maintain a minimum horizontal distance to the nearest known point of hydraulic contact with the high plains aquifer, in accordance with the schedule set forth in subsection (a).

(continued)

(c) In the case of a battery of wells, as defined in K.A.R. 5-1-1, the minimum horizontal distance shall be measured from the geographic center of the wells comprising the battery.

(d) A well penetrating both a confined and unconfined aquifer shall be constructed to prevent the vertical migration of water between the aquifers. A well diverting water from the Dakota aquifer system shall be constructed to prevent the vertical migration of water between the Dakota aquifer system and all other freshwater aquifers.

(e) The location of a well or wells on an application for approval to change the point of diversion under an existing water right shall be no more than 2,640 feet from the currently authorized and completed point of diversion and shall meet either of the following conditions:

(1) Not decrease the distance to other wells or authorized well locations by more than 300 feet; or

(2) meet the minimum well spacing requirements.

(f) No application for approval to change the point of diversion under an approval of application for which the original well has not been drilled shall be approved if the location of the proposed point of diversion decreases the distance from the approved location to any other existing wells to less than the spacing requirements for a new application. (Authorized by K.S.A. 82a-706a and K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective Sept. 22, 2000.)

**5-23-4. Allowable annual appropriation: high plains aquifer.** (a) Except as set forth in subsection (b), the approval of all applications for a permit to appropriate water from the high plains aquifer, and the approval of all applications for a change in the point of diversion if the diversion works have not been completed under the original approved application, shall be subject to the following criteria. The proposed appropriation, when added to the vested rights, prior appropriation rights, and earlier priority applications, shall not exceed a calculated rate of depletion of 40 percent in 25 years of the saturated thickness underlying the area of consideration.

For the purpose of analysis, all vested rights, certificates, permits, and prior unapproved applications shall be considered to be fully exercised, and all limitation clauses listed on permits to appropriate water and certificates shall be considered to be in force.

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

The allowable annual appropriation shall be calculated using the following formula:

$$\text{Allowable Aquifer Yield} = \frac{0.40\text{AMS}}{25} + \frac{\text{AR}}{12}$$

Allowable aquifer yield = the amount of water, measured in acre-feet, available annually for appropriation from a proposed point of diversion (well).

A = the "area of consideration," as defined in K.A.R. 5-23-1(c).

M = feet of average saturated thickness of the high plains aquifer within a two-mile radius.

S = the storage coefficient or a specific yield of 15 percent.

R = average annual recharge and return flow, which shall be a minimum of one inch per year.

The saturated thickness and the value of any existing appropriations involving the area of consideration shall be determined from data, maps, or both, approved by the board and adopted by the chief engineer by regulation.

(b)(1) This regulation shall not apply to the following:

(A) Wells for domestic use;

(B) wells authorized by temporary permits;

(C) wells authorized by term permits of fewer than five years;

(D) an application to appropriate 15 acre-feet of water or less if all of the following conditions are met:

(i) The allowable aquifer yield has been exceeded but the sum of the annual quantity requested by the proposed appropriation and the total quantities authorized by prior permits because of this exemption does not exceed 15 acre-feet in a circle with a radius of ½ mile surrounding the proposed point of diversion.

(ii) Well spacing criteria have been met.

(iii) Approval of the application will not authorize an additional quantity of water out of an existing well authorized by a nondomestic approval of application or water right, which would result in a total combined annual quantity of water authorized from that well in excess of 15 acre-feet.

(iv) All other criteria for processing a new application have been met.

(2) (A) The average saturated thickness of the two-mile-radius circle for a well proposed to be located in the following areas shall be limited to that portion of the saturated thickness containing less than 250 milligrams per liter (mg/l) of chlorides at the test holes, unless "other waters" are being appropriated pursuant to K.S.A. 82a-711 and amendments thereto:

(i) The west ½ of townships 33, 34, and 35 south, range 28 west;

(ii) the east ½ of township 33 south, range 29 west;

(iii) all of townships 34 and 35 south, ranges 29 and 30 west in Meade County, Kansas; and

(iv) all of townships 34 and 35 south, ranges 31 and 32 west and the east ½ of townships 34 and 35 south, range 33 west in Seward County, Kansas.

(B) Each application filed to request a well within this area described in paragraph (b)(2) above shall include a driller's log, an electric log, and a laboratory analysis from a state-certified laboratory of the chloride concentrations in samples taken from whatever depths are necessary to determine the vertical location where the chloride concentrations exceed 250 mg/l. The samples shall be taken from a well located within a 300-foot radius of the proposed well. A state-certified laboratory analysis shall be used to determine the vertical location of the chloride concentrations exceeding 250 mg/l.

(C) Each well constructed in the area described in paragraph (b)(2) above shall be constructed in a manner that prevents the movement of water containing 250 mg/l of chlorides beyond its naturally occurring condition. (Authorized by K.S.A. 82a-706a and 82a-1028(o); implement-

ing K.S.A. 82a-1028(n); effective May 1, 1981; amended May 1, 1986; amended Aug. 28, 1989; amended Sept. 22, 2000.)

**5-23-4a. Criteria for closing townships to new appropriations.** Entire townships shall be closed to further appropriation of water for beneficial use from the high plains aquifer, as set forth in K.A.R. 5-23-4(b), if at least one of the following conditions exists:

(a) The entire township is fully appropriated.

(1) A township shall be considered to be fully appropriated if the aquifer within the township would be depleted by 40 percent or more in 25 years if current vested rights and appropriations are fully exercised and all limitation clauses listed on permits to appropriate water and certificates are in force.

(2) Aquifer depletion shall be calculated using the allowable annual appropriation formula described in K.A.R. 5-23-4 with the area of consideration equal to the number of acres within sections of land containing saturated thickness within the township.

(b) The average saturated thickness of the aquifer within the township is 50 feet or less. The average saturated thickness within a township shall be determined from data, maps, or both, recommended by the board and adopted by the chief engineer by regulation.

(c) The aquifer has been depleted by 20 percent or more since 1950. Depletion since 1950 shall be determined from maps or data, or both, recommended by the board and adopted by the chief engineer by regulation. (Authorized by K.S.A. 82a-706a and 82a-1028(o); implementing K.S.A. 82a-1028(n); effective Sept. 30, 1991; amended Sept. 22, 2000.)

**5-23-4b. Township closures.** (a) The following townships have been determined to meet the criteria in K.A.R. 5-23-4a for closing a township to new appropriations of water from the high plains aquifer; therefore, the following townships are hereby closed to new appropriations of water from the high plains aquifer, except as described in section (b):

County	Township	Range	County	Township	Range
Finney	21	30	Finney	26	31
Finney	21	31	Finney	26	32
Finney	21	32	Finney	26	33
Finney	21	33	Finney	26	34
Finney	21	34	Ford	25	21
Finney	22	30	Ford	25	22
Finney	22	31	Ford	25	23
Finney	22	32	Ford	25	24
Finney	22	33	Ford	25	25
Finney	22	34	Ford	26	22
Finney	23	27	Ford	26	24
Finney	23	29	Ford	26	25
Finney	23	30	Ford	26	26
Finney	23	31	Ford	27	21
Finney	23	32	Ford	27	22
Finney	23	33	Ford	27	23
Finney	23	34	Ford	27	24
Finney	24	31	Ford	27	25
Finney	24	32	Ford	27	26
Finney	24	33	Ford	28	21
Finney	24	34	Ford	28	22
Finney	25	31	Ford	28	24
Finney	25	32	Ford	28	25
Finney	25	33	Ford	28	26
Finney	25	34	Ford	29	22

County	Township	Range	County	Township	Range
Ford	29	25	Kearny	24	36
Ford	29	26	Kearny	24	37
Grant	27	35	Kearny	24	38
Grant	27	36	Kearny	25	35
Grant	27	37	Kearny	25	36
Grant	27	38	Kearny	25	38
Grant	28	35	Kearny	26	35
Grant	28	36	Kearny	26	36
Grant	28	37	Kearny	26	37
Grant	28	38	Kearny	26	38
Grant	29	35	Meade	30	27
Grant	29	36	Meade	30	28
Grant	29	37	Meade	30	29
Grant	29	38	Meade	30	30
Grant	30	35	Meade	31	26
Grant	30	36	Meade	31	29
Grant	30	37	Meade	31	30
Grant	30	38	Meade	32	30
Gray	24	27	Meade	33	30
Gray	24	28	Meade	34	28
Gray	24	29	Meade	35	28
Gray	24	30	Morton	31	39
Gray	25	28	Morton	31	40
Gray	25	29	Morton	31	41
Gray	25	30	Morton	31	42
Gray	26	27	Morton	31	43
Gray	26	28	Morton	32	39
Gray	26	29	Morton	32	40
Gray	26	30	Morton	32	41
Gray	27	27	Morton	32	42
Gray	27	28	Morton	32	43
Gray	27	29	Morton	33	41
Gray	27	30	Morton	33	43
Gray	28	27	Morton	34	42
Gray	28	28	Morton	35	39
Gray	28	29	Morton	35	40
Gray	28	30	Morton	35	41
Gray	29	27	Morton	35	42
Gray	29	28	Morton	35	43
Gray	29	29	Seward	31	31
Gray	29	30	Seward	31	32
Hamilton	25	42	Seward	31	33
Hamilton	25	43	Seward	31	34
Hamilton	26	39	Seward	32	31
Hamilton	26	40	Seward	32	32
Hamilton	26	41	Seward	32	33
Hamilton	26	42	Seward	32	34
Hamilton	26	43	Stanton	27	39
Haskell	27	31	Stanton	27	40
Haskell	27	32	Stanton	27	41
Haskell	27	33	Stanton	27	42
Haskell	27	34	Stanton	27	43
Haskell	28	31	Stanton	28	39
Haskell	28	32	Stanton	28	40
Haskell	28	33	Stanton	28	41
Haskell	28	34	Stanton	28	42
Haskell	29	31	Stanton	28	43
Haskell	29	32	Stanton	29	39
Haskell	29	33	Stanton	29	40
Haskell	29	34	Stanton	29	41
Haskell	30	31	Stanton	29	42
Haskell	30	32	Stanton	29	43
Haskell	30	33	Stanton	30	39
Haskell	30	34	Stanton	30	40
Kearny	22	35	Stanton	30	41
Kearny	22	36	Stanton	30	42
Kearny	22	37	Stanton	30	43
Kearny	22	38	Stevens	31	35
Kearny	23	35	Stevens	31	36
Kearny	23	36	Stevens	31	37
Kearny	23	37	Stevens	31	38
Kearny	23	38	Stevens	31	39
Kearny	24	35	Stevens	32	35

(continued)

County	Township	Range	County	Township	Range
Stevens	32	39	Stevens	35	38
Stevens	32	38	Stevens	35	39
Stevens	34	38			

(b) The closure of the townships to new appropriations of water from the high plains aquifer as listed in subsection (a) shall not apply to the following:

- (1) Wells for domestic use;
- (2) wells authorized by temporary permits;
- (3) wells authorized by term permits of fewer than five years; and
- (4) wells authorized by an application to appropriate 15 acre-feet of water or less if the following conditions are met:

(A) The allowable aquifer yield has been exceeded, but the sum of the annual quantity requested by the proposed appropriation and the total quantities authorized by prior permits because of this exemption does not exceed 15 acre-feet in a circle with a radius of  $\frac{1}{2}$  mile surrounding the proposed point of diversion;

(B) Well spacing criteria have been met.

(C) Approval of the application will not authorize an additional quantity of water out of an existing well authorized by a nondomestic approval of an application or water right that would result in a total combined annual quantity of water authorized from that well in excess of 15 acre-feet.

(D) All other criteria for processing a new application have been met. (Authorized by K.S.A. 82a-706a and 82a-1028(o); implementing K.S.A. 82a-1028(n); effective Sept. 22, 2000.)

**5-23-14. Dakota aquifer system.** All evaluations in the southwest Kansas groundwater management district no. 3 involving a determination of the extent of the confined and unconfined Dakota aquifer system shall use the information shown in the Kansas geological survey open file report number 98-37, released August 1998, which is hereby adopted by reference, unless the applicant or the district provides, or the chief engineer has available, better or more site-specific data concerning the extent of the confined and unconfined Dakota aquifer system. (Authorized by K.S.A. 82a-706a and K.S.A. 82a-1028(o); implementing K.S.A. 82a-709, K.S.A. 1999 Supp. 82a-711, and K.S.A. 82a-1028(n); effective Sept. 22, 2000.)

**5-23-15. Saturated thickness of the high plains aquifer.** All evaluations in the southwest Kansas groundwater management district no. 3 involving a determination of the saturated thickness of the high plains aquifer shall use the information shown in the Kansas geological survey open file report number 98-52, plate B, released February 1999, which is hereby adopted by reference, unless the applicant or the district provides, or the chief engineer has available, better or more site-specific data concerning the saturated thickness of the high plains aquifer. (Authorized by K.S.A. 82a-706a and K.S.A. 82a-1028(o); implementing K.S.A. 1999 Supp. 82a-711 and K.S.A. 82a-1028(n); effective Sept. 22, 2000.)

#### Article 40.—DESIGN OF EARTH DAMS

**5-40-1. Definitions.** As used in K.S.A. 82a-301 through 82a-305a and amendments thereto, in the regu-

lations adopted pursuant thereto, and by the division of water resources in administering K.S.A. 82a-301 through 82a-305a and amendments thereto, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this regulation: (a) "Application" means the formal document submitted to the chief engineer requesting a permit, in accordance with the provisions of K.S.A. 82a-301 through 82a-305a and amendments thereto, that authorizes the applicant to proceed with the construction of a proposed dam, channel change, or stream obstruction.

(b) "Authorized representative" means any staff employee designated by the chief engineer to perform duties and functions on behalf of the chief engineer.

(c) "Channel change or stream obstruction" means any project or structure, including any dam, that meets either of the following criteria:

- (1) Does not extend above the higher natural bank; or
- (2) alters the course, current, or cross section of any stream of the state.

(d) "Chief engineer" means the chief engineer, division of water resources of the Kansas department of agriculture.

(e) "Dam" means any artificial barrier, together with appurtenant works, that does, or may, impound water.

(f) "Freeboard" means the vertical distance between the maximum stage attained in the design storm event and the top of the structure.

(g) "Navigable stream" means the Arkansas river, the Missouri river, and the Kansas river.

(h) "Perennial stream" means a stream, or part of a stream, that flows continuously during all of the calendar year, except during an extreme drought.

(i) "Permit" means the formal document that is issued by the chief engineer to the sponsor of a project and that authorizes the sponsor to proceed with the construction of the dam, channel change, or stream obstruction.

(j) "Reservoir" means the area upstream from a dam that contains, or will contain, impounded water.

(k) "Stream" means any watercourse that has a well-defined bed and banks, and that has a watershed above the geographic point in question that exceeds the following number of acres:

(1) Zone three: 640 acres for all geographic points within any county west of a line formed by the adjoining eastern boundaries of Phillips, Rooks, Ellis, Rush, Pawnee, Edwards, Kiowa, and Comanche counties;

(2) zone two: 320 acres for all geographic points within any county located east of zone three and west of a line formed by the adjoining eastern boundaries of Republic, Cloud, Ottawa, Saline, McPherson, Reno, Kingman, and Harper counties; and

(3) zone one: 240 acres for all geographic points within any county located east of zone two. The stream need not flow continuously and may flow only briefly after a rain in the watershed. If the site of the project has been altered so that a determination of whether the well-defined bed and banks exist is not possible, it shall be presumed that they did exist if the watershed acreage criteria have been met, unless the owner of the project can conclusively demonstrate that the well-defined bed and banks did not exist before the construction of the project.

(l) "Watershed" means all of the area draining toward a selected point on a stream. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-302; effective May 1, 1983; amended May 1, 1987; amended, T-5-12-30-91, Dec. 30, 1991; amended Feb. 17, 1992; amended Sept. 22, 2000.)

**5-40-4. Preparer of maps, plans, profiles, and specifications.** In addition to the requirements of the Kansas board of technical professions, the requirements in this regulation shall apply. (a) Each map, plan, profile, and specification submitted to the chief engineer for approval shall be prepared by a person who is competent in the design and construction of dams, channel changes, or stream obstructions, as appropriate.

(b) Maps, plans, profiles, and specifications for any dam that meets one of the following criteria shall be prepared by a licensed professional engineer who is competent in the design and construction of dams:

- (1) Impounds 50 acre-feet or more at the top of the dam;
- (2) is 25 feet or more in height; or
- (3) is either a class (b) or class (c) hazard dam.

(c) Maps, plans, profiles, and specifications for any channel change or stream obstruction project on a navigable stream or a stream having a mean annual flow of 100 cubic feet per second or more at the proposed location of the project shall be prepared by a licensed professional engineer who is competent in the design of that type of project.

(d) No provision of this regulation, nor any decision made by the chief engineer pursuant to this regulation, shall alter the responsibilities or duties of any licensee of the Kansas board of technical professions to comply with that board's requirements. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-302; effective May 1, 1983; amended May 1, 1986; amended May 1, 1987; amended Sept. 22, 2000.)

**5-40-11. Alternative requirements for approval to construct a dam.** Construction or modification of a dam shall be approved by the chief engineer with any permit conditions necessary to protect life, property, and public safety if both of the following conditions are met:

(a) The applicant applies for prior written consent or a permit to build or modify a dam.

(b) The proposed dam or modification of a dam does not meet one or more of the hydrologic and engineering requirements of K.A.R. 5-40-9 and K.A.R. 5-40-10, but the applicant demonstrates to the chief engineer, based on sound hydrologic and engineering principles, that the proposed dam, or modification of a dam, will not endanger life, property, and public safety if it is constructed or modified in accordance with the submitted plans and specifications. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-302 and 82a-303; effective Sept. 22, 2000.)

**5-40-14. Testing a principal spillway pipe installation in a dam; applicability.** (a) For the purpose of testing the leakage rate of principal spillway pipe installation in a dam, an applicant shall conduct a static pressure test of each principal spillway installation constructed of corrugated metal pipe.

(b) A static pressure test shall be required only of a principal spillway installation made of corrugated metal

pipe, unless the chief engineer determines that testing principal spillway pipe made of other materials or testing other pipes used in the construction of dams is necessary to protect public safety, life, or property. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303b; effective Sept. 22, 2000.)

**5-40-15. Testing a principal spillway pipe installation in a dam; general procedures.** The following general procedures shall apply to all static pressure tests required by K.A.R. 5-40-14: (a) The applicant shall conduct the test before backfilling around and over the principal spillway pipe and after laying the pipe on the grade line and connecting the pipe according to the approved plans and the manufacturer's requirements.

(b) The applicant, the applicant's representative, or the contracting officer shall make arrangements for the chief engineer, or a person designated by the chief engineer, to be present during the test.

(c) The applicant shall place a watertight plug in the downstream end of the pipe. The plug shall be sufficient to withstand a pressure of three pounds per square inch for the duration of the test. The plug shall be equipped with an acceptable means of draining the water out of the pipe after completion of the test.

(d) The applicant shall fill the pipe with water up to an elevation of 10 feet above the flow line at the pipe outlet, or up to the principal spillway inlet elevation, whichever is less, unless a different elevation is required by the test method described in K.A.R. 5-40-16(b).

(e) The applicant shall note the exact elevation of the water surface at the time the test begins. At the end of the prescribed test duration, the applicant shall measure the water surface elevation.

(f) The applicant shall use one of the test methods described in K.A.R. 5-40-16 to determine whether the water leakage rate is acceptable.

(g) If the leakage rate determined by either of the methods described in K.A.R. 5-40-16 is not acceptable, the applicant shall determine the source of the leakage and correct the leakage. After correction, the applicant shall perform another test in accordance with K.A.R. 5-40-15 and K.A.R. 5-40-16.

(h) If the leakage rate determined by either of the methods described in K.A.R. 5-40-16 is acceptable, the applicant shall drain and backfill the pipe in the manner prescribed by the approved plans and specifications. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303b; effective Sept. 22, 2000.)

**5-40-16. Testing a principal spillway pipe installation in a dam; allowable leakage rate, test methods.** The allowable leakage rate for a principal spillway pipe installation in a dam shall not exceed 1,000 gallons per inch diameter of pipe per mile of pipe per day. The applicant shall use one of the following test methods in determining whether the allowable leakage rate has been exceeded:

(a) The applicant shall use the following test method procedure for a drop inlet structure if the starting and ending elevation of the water is within the vertical drop structure and above the top of the barrel:

(continued)

(1) Calculate the allowable leakage rate in gallons per minute for the pipe being tested based on the following formula:

The allowable leakage rate in gallons per minute =  $0.000132 \times d \times l$  where:

$d$  = diameter of the tested pipe in inches

$l$  = length of the tested pipe in feet

If the allowable leakage rate in gallons per minute is determined to be less than one, then it shall be assumed for the purposes of the test that the allowable leakage rate in gallons per minute is one.

(2) Conduct the test for 15 minutes.

(3) If the allowable leakage rate is one gallon per minute, the applicant may use the following table to determine the allowable drop in the elevation of the water in the riser.

Nominal diameter of riser (inches)	Allowable drop (feet)
18	1.13
20	0.83
24	0.64
30	0.41
36	0.28

(4) If the measured drop in the riser exceeds the corresponding allowable drop in paragraph (a)(1) above, the allowable leakage rate has been exceeded, which shall not be acceptable. If the measured drop in the riser is less than or equal to the corresponding allowable drop in paragraph (a)(1) above, the allowable leakage rate has not been exceeded and shall be acceptable.

(b) The applicant shall use the following test method procedure for all other types of installations, including canopy inlets:

(1) If filling the pipe with water up to an elevation of 10 feet above the outlet puts water within the vertical riser below the top of the barrel, the elevation shall be reduced below the bottom of the vertical riser before the test begins.

(2) The allowable drop in elevation is a function of the allowable leakage rate, test duration, and the diameter and slope of the pipe. The allowable drop in the pipe in feet shall be calculated by use of the following formula:

$$\frac{\text{allowable rate (gallons per minute)} \times \text{test duration (minutes)} \times \text{slope (\%)}}{[\text{diameter (inches)}]^2 \times 4.08}$$

(3) The minimum test duration shall be 15 minutes. If the above formula results in an allowable drop of less than 0.1 foot in 15 minutes, the test duration shall be extended so that the allowable drop is greater than 0.1 feet.

(4) The water surface elevation drop shall be measured by means of a clear plastic tube installed in the plug at the downstream end of the principal spillway pipe. Any other means of measuring the drop in elevation shall be approved by the chief engineer in advance of the test.

(5) If the measured drop is greater than the allowable drop as calculated in paragraph (b)(2), the allowable leakage rate has been exceeded, which shall not be acceptable. If the allowable drop is less than or equal to the allowable drop as calculated in paragraph (b)(2), the allowable leakage rate has not been exceeded, which shall be acceptable.

(Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303b; effective Sept. 22, 2000.)

#### Article 41.—DESIGN OF CHANNEL CHANGES

##### 5-41-1. Channel changes; plans and specifications.

Plans for a channel change shall include the following: (a) A general location map or aerial photograph, showing the present alignment of the stream, location of the proposed channel change, section lines, property lines with names and addresses of adjoining landowners, drainage area, a north arrow, a bar scale, and any other prominent features;

(b) a detailed plan view of the project with stationing shown, including as many other views as necessary to fully describe the project;

(c) a profile drawing along the centerline of the proposed new channel. This profile shall extend five times the channel width upstream and an equivalent distance downstream from each end of the new channel. The stationing shown on the plan view shall correspond to stationing on the profile drawing. This drawing shall show the present ground surface, the present stream bed, and the grade line of the proposed new channel;

(d) cross sections of the existing stream at locations immediately above and below the proposed channel change. The location of these cross sections shall be described and shown on the plans. The elevations of the top of the existing banks and bottom of the channel shall be shown;

(e) at least one permanent bench mark conveniently located for use after construction, except for grassed waterways constructed for the purpose of conveying runoff without causing erosion or flooding. The location, description, and elevation of the permanent bench mark, to which all elevations are referred, shall be shown on the plans. The designer shall reference the project bench mark to the current national geodetic vertical datum, to a tolerance of plus or minus 1/2 foot on all channel changes involving perennial streams and where detailed flood-plain data are available. Project datum shall be acceptable on all other channel changes; and

(f) a cross-sectional drawing of the proposed new channel, including dimensions. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-302; effective May 1, 1987; amended Sept. 22, 2000.)

**5-41-6. Channel changes; vegetative strips on new channels.** On each new channel project, except a grassed waterway constructed for the purpose of conveying runoff without causing erosion or flooding, a vegetative strip shall be established and maintained for a width of 50 feet immediately adjoining the channel on each side of the stream if site conditions permit, or unless an acceptable engineering design shows that a greater or lesser width of vegetative strip is preferable. The general type of vegetation shall be approved by the chief engineer. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303; effective May 1, 1987; amended Sept. 22, 2000.)

#### Article 42.—DESIGN OF STREAM OBSTRUCTIONS

**5-42-3.** (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303; effective May 1, 1987; amended April 27, 1992; revoked Sept. 22, 2000.)

**5-42-4. Stream obstruction; temporary structure.** A temporary structure shall not require a stream obstruction permit from the chief engineer pursuant to K.S.A. 82a-301 et seq. and amendments thereto if it meets all of the following criteria:

- (a) The structure is temporary in nature.
- (b) The structure is constructed only of temporary materials, including local streambed materials, straw or hay bales, plastic, or plywood, that are likely to wash out during a bank-full storm event.
- (c) The structure is actively maintained only during the duration of the temporary beneficial use.
- (d) The structure is less than two feet in height above the natural bed of the stream, and alterations to the stream and alterations to the stream bank are no more than are necessary for permitting access to the site for operation and maintenance.
- (e) The structure is below the natural low bank of the stream.
- (f) Any water backed up by the structure is detained solely on property under the control of the landowner that constructed the temporary structure.
- (g) The structure does not materially adversely affect the public interest, public safety, or environment. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303; effective Sept. 22, 2000.)

#### Article 45.—DESIGN OF LEVEES

**5-45-1. Levees and floodplain fills; definitions.** As used in K.S.A. 24-126 and amendments thereto, in the regulations adopted pursuant thereto, and by the division of water resources in administering K.S.A. 24-126, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this regulation: (a) "Approval" means the written approval of plans and specifications by the chief engineer authorizing the applicant to proceed with the construction and maintenance of a levee or floodplain fill project.

- (b) "Authorized representative" means any staff employee designated by the chief engineer to perform duties and functions on behalf of the chief engineer.
- (c) "Base flood" means a flood having a one percent chance of being equaled or exceeded in any one year.
- (d) "Chief engineer" means the chief engineer, division of water resources, Kansas department of agriculture.
- (e) "Design flood" means a flood having a selected probability of being equaled or exceeded in any one year for the degree of protection required.
- (f) "Environmental mitigation" means any of the following:

- (1) Site-specific modification of a project;
- (2) implementation of a practice or management; or
- (3) the reservation of a part of the project to protect or replace environmental values destroyed or adversely affected by the project.

(g) "Equal and opposite conveyance" means the location of development offsets from stream banks so that floodplain lands on each side of a stream outside the stream channel convey a share of the flood flows proportionate to the total conveyance available on each respective side of the stream.

(h) "Floodplain fill" means material, usually soil, rock, or rubble, that is placed in a floodplain to an average height of greater than one foot above the existing ground and that has the effect of diverting, restricting, or raising the level of floodwaters on a stream.

(i) "Floodway" means the channel of a stream and adjacent land areas that have been determined as being necessary to convey the base flood, as calculated using the minimum requirements of the national flood insurance act of 1968, 42 U.S.C. 4001 et seq., as amended September 23, 1994, and 44 C.F.R. part 59, subpart A, sec. 59.1 and 44 C.F.R. part 60, subpart A, sec. 60.3, as amended October 1, 1998.

(j) "Floodway fill" means floodplain fills, other than a levee, placed wholly or partially within the boundaries of the floodway at locations where the floodway has been identified.

(k) "Floodway fringe" means those portions of a floodplain outside of the boundaries of a regulatory floodway within reaches of a stream where such a floodway has been established.

(l) "Floodway fringe fill" means floodplain fills, other than a levee, placed wholly outside the floodway boundaries at locations where the floodway has been identified.

(m) "Levee" means any floodplain fill with an average height of more than one foot above the surrounding terrain constructed generally parallel to a water course and whose purpose is to repel floodwaters.

(n) "Perennial stream" means a stream, or a part of a stream, that flows continuously during all of the calendar year, except during an extended drought.

(o) "Stream" means any watercourse that has a well-defined bed and banks, and that has a watershed above the geographic point in question that exceeds the following number of acres:

(1) Zone three: 640 acres for all geographic points within any county west of a line formed by the adjoining eastern boundaries of Phillips, Rooks, Ellis, Rush, Pawnee, Edwards, Kiowa, and Comanche counties;

(2) zone two: 320 acres for all geographic points within any county located east of zone three and west of a line formed by the adjoining eastern boundaries of Republic, Cloud, Ottawa, Saline, McPherson, Reno, Kingman, and Harper counties; and

(3) zone one: 240 acres for all geographic points within any county located east of zone two.

The stream need not flow continuously and may flow only briefly after a rain in the watershed. If the site of the project has been altered so that a determination of whether well-defined bed and banks exist is not possible, it shall be presumed that they did exist if the watershed acreage criteria have been met, unless the owner of the project can conclusively demonstrate that well-defined bed and banks did not exist before the construction of the project.

(p) "Watershed" means all of the area draining toward a selected point on a stream. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992; amended Sept. 22, 2000.)

(continued)

**5-45-4. Levees and floodplain fills; preparer of maps, plans, profiles, and specifications.** In addition to the requirements of the Kansas board of technical professions, the following requirements shall apply: (a) Each map, plan, profile, and specification submitted to the chief engineer for approval pursuant to K.S.A. 24-126 and amendments thereto shall be prepared by a person who is competent in levee or floodplain fill design and construction.

(b) Map, plans, profiles, and specifications for any of the following described levees and floodplain fills shall be prepared by a licensed professional engineer that is competent in levee or floodplain fill design and construction:

- (1) Class C levees;
- (2) floodplain fills located in whole or in part in identified floodways; and
- (3) floodplain fills that meet the following criteria:
  - (A) Are located in areas without a designated floodway;
  - (B) are greater than 3,200 cubic yards in volume;
  - (C) are more than four feet in height; and
  - (D) are more than 100 feet from other floodplain fills.

(c) No provision of this regulation, nor any decision made by the chief engineer pursuant to this regulation, shall alter the responsibilities or duties of any licensee of the Kansas board of technical professions to comply with that board's requirements. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992; amended Sept. 22, 2000.)

**5-45-13. Levees; floodplain fills; unreasonable effect.** (a) Except as set forth in subsection (b), no plans for any levee or floodplain fill that has an unreasonable effect on another shall be approved by the chief engineer. An unreasonable effect caused by a levee or floodplain fill shall be deemed any of the following:

- (1) An increase in the elevation of the design and base flood profiles of more than one foot at any location outside a floodway;
- (2) any increase in the elevation of the design and base flood profiles within a floodway; or
- (3) a cumulative increase of more than one foot in the elevation of the design and base flood profiles. A levee or floodplain fill that has an unreasonable effect on another may be approved by the chief engineer subject to any conditions necessary to protect the public interest if either of the following criteria is met:

(1) The applicant demonstrates to the chief engineer that the applicant has obtained legal authorization from any landowner whose land is unreasonably hydraulically affected by a greater increase in the elevation of the design and base flood profile.

(2) The following conditions are met:

(A) The owner of the undeveloped, unplatted land that will be hydraulically affected by an increase in the design and base flood profiles of more than one foot by a federal or state cost-shared roadfill, bridge, or culvert replacement project has been notified of the proposed hydraulic effects by the chief engineer.

(B) The owner has failed to object within the time limit set forth in the notice.

(C) The chief engineer determines that the increase will not be likely to materially damage the private or public property. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992; amended Sept. 22, 2000.)

**5-45-14. Levees and floodplain fills; hydrologic and hydraulic analysis.** (a) The applicant shall submit a hydrologic and hydraulic analysis for every levee and floodplain fill project except floodway fringe fill projects and those levee projects and floodplain fill projects not identified in K.A.R. 5-45-4(b). The hydrologic and hydraulic analysis shall include the design and base floods for main streams, tributary streams, and local drainage, describing the existing and proposed conditions with the application and plans.

(b) The effect of a proposed levee or floodplain fill shall be calculated by the technique of equal conveyance reduction, except as provided in subsections (c) and (d), unless it meets either of the following criteria:

(1) The applicant demonstrates that the applicant has obtained legal authorization from any landowner whose land is unreasonably hydraulically affected by a greater encroachment toward the channel.

(2) The following conditions are met:

(A) The owner of the undeveloped, unplatted land that will be hydraulically affected by an increase in the elevation of the base flood profile of more than one foot by a federal or state cost-shared roadfill, bridge, or culvert project has been notified of the proposed hydraulic effects by the chief engineer.

(B) The owner has failed to object within the time limit set forth in the notice.

(C) The chief engineer determines that the increase will not be likely to materially damage the private or public property.

(c) For a class A or class B levee, the effect of the proposed levee on the design flood profile shall be evaluated with the assumption that an equal setback levee is in place on the opposite side of the stream.

(d) For a class C levee, the effect of the proposed levee on the design flood profile shall be calculated by the technique of equal conveyance reduction from the outer floodplain limits outside the channel, unless the applicant demonstrates that the applicant has obtained legal authorization from all landowners whose land would be unreasonably hydraulically affected by a greater encroachment toward the channel. (Authorized by and implementing K.S.A. 24-126; effective, T-5-12-30-91, Jan. 1, 1992; effective April 27, 1992; amended Sept. 22, 2000.)

**5-45-18. Floodplain fills; incidental to bridge and culvert replacement projects.** Each floodplain fill constructed incidental to a bridge or culvert replacement project that otherwise meets the requirements of K.A.R. 5-46-1 shall be considered to have the necessary approval of plans pursuant to K.S.A. 24-126, and amendments thereto, and article 45 of the rules and regulations adopted by the Kansas department of agriculture, division of water resources. (Authorized by and implementing K.S.A. 24-126; effective Sept. 22, 2000.)



## Article 46.—GENERAL PERMITS

**5-46-1. General permits; bridge and culvert replacement projects.** (a) Except as provided in subsection (e), the construction of any bridge or culvert replacement project with a watershed of 2,560 or more acres in zone one, 3,840 or more acres in zone two, and 5,120 or more acres in zone three shall meet the criteria in subsection (c) of this regulation. Before construction, the applicant shall apply for and obtain a general permit from the chief engineer. The application shall be filed on a form prescribed by the chief engineer and shall be accompanied by plans or sketches meeting the requirements of K.A.R. 5-42-2.

(b) Except as provided in subsection (e), the construction of any bridge or culvert replacement project with a watershed of fewer than 2,560 acres in zone one, 3,840 acres in zone two, and 5,120 acres in zone three shall meet the criteria in subsection (c) of this regulation. Before construction, the applicant shall properly complete an application for, and receive the consent of, the chief engineer. The application shall be filed on a form prescribed by the chief engineer.

(c) Each bridge replacement and culvert replacement project shall meet all of the following criteria:

(1) The project shall not be a change either in alignment or in the cross section of a stream of more than 200 feet in length on minor streams, and not more than 400 feet in length on moderate or major streams as measured along the original channel. A minor stream is defined as a stream or watercourse that has a mean annual flow of less than five cubic feet per second (cfs). The major streams are the Kansas River, the Arkansas River, and the Missouri River. A moderate stream is defined as a stream or watercourse with a mean annual flow equal to or greater than five cfs, but is not a major stream.

(2) The proposed culvert or bridge replacement shall have the following:

(A) A cross-sectional area at least equivalent to that of the original bridge or culvert for water to flow over, through or around; and

(B) a road grade across the floodplain and approaching the bridge or culvert that is not raised by more than an average of one foot. The average rise of the road grade shall be calculated by measuring the difference between the proposed grade and the existing grade at the beginning and end of each interval of 100 or fewer feet, dividing the sum of the two differences by two and multiplying the mean by the number of feet in the interval. The sum of these calculations from each interval shall then be added together and the total sum divided by the length, in feet, of the road alteration. The average road grade shall not increase by a cumulative amount of more than one foot since April 11, 1978.

(3) A vegetative strip measuring 50 feet from the bank and outward on each side of a channel change shall be maintained in a manner consistent with the existing riparian vegetation and other design criteria.

(4) The project shall not alter the channel's cross-sectional area by more than 15 percent, nor shall it alter the channel length by more than 10 percent.

(d) If any bridge or culvert replacement project does not meet the requirements of this regulation, the appli-

cant may apply for a nongeneral permit pursuant to K.S.A. 82a-301 et seq., and amendment thereto, before construction.

(e) If any bridge or culvert replacement project does not meet the requirements of this regulation or the chief engineer determines that the project may have an unreasonable effect on the public interest, public safety, or environmental interests, the right to perform the following shall be reserved by the chief engineer:

(1) Require a general permit meeting the requirements of this regulation or a nongeneral permit meeting the requirements of K.S.A. 82a-301 et seq., and amendment thereto, before construction; and

(2) amend, modify, or revoke the prior general permit or consent issued in accordance with this regulation. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303; effective Sept. 22, 2000.)

**5-46-3. General permits; sand and gravel removal operations.** (a) Before the commencement or continuation of any sand or gravel removal from a site with a drainage area of 50 or more square miles above the site, the removal operation shall meet the criteria in subsection (c) of this regulation. Before the removal of any sand and gravel, the owner shall apply for and obtain a general permit from the chief engineer. The application shall be filed on a form prescribed by the chief engineer and shall be accompanied by plans meeting the requirements of K.A.R. 5-42-2.

(b) If the proposed sand or gravel removal operation meets the criteria set forth in subsection (c) of this regulation and there are fewer than 50 square miles of drainage area above the proposed sand or gravel removal site, a permit shall not be required unless the chief engineer determines that a permit is necessary to protect the public interest, public safety, or environmental interests.

(c) All sand and gravel operations covered by this regulation shall meet the following criteria:

(1) The sand and gravel removal operation shall be limited to removing a maximum of 100 cubic yards per year from each sand and gravel removal site. Other than bridge maintenance sites, all sand and gravel removal operations on the same stream and its tributaries shall be separated by at least 1,320 feet.

(2) A sand and gravel removal operation shall not be located within the following distances of a bridge, pipeline, cable crossing, levee, or other feature, except when the written permission or easement of the owner of the bridge, pipeline, cable crossing, levee, or other feature is obtained by the applicant, and a written waiver is granted by the chief engineer:

(A) 50 feet of the banks, or in the channels of the Missouri, Kansas, or Arkansas rivers, and 50 feet of the banks, or in the channels of their tributaries, for ½ mile upstream from the mouth of the tributaries;

(B) one mile of a public water supply intake;

(C) 500 feet of a bridge;

(D) 300 feet of a buried pipeline or cable crossing; and

(E) 200 feet of a levee or other feature subject to damage.

(3) Stockpiles of material shall be located in a manner that does not affect the flow of water on the property of any other landowner.

(continued)

(d) If any sand or gravel removal operation covered by this regulation does not meet the requirements of this regulation, or if the chief engineer determines that the operation may have an unreasonable effect on the public interest, public safety, or environmental interests, the right to perform the following shall be reserved by the chief engineer:

(1) Require a nongeneral permit pursuant to K.S.A. 82a-301 et seq., and amendments thereto; and

(2) amend, modify, or revoke the general permit issued in accordance with this regulation. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303; effective Sept. 22, 2000.)

**5-46-4. General permits; pipeline crossings.** (a) Before the construction of any pipeline or buried cable crossing of a stream having 50 or more square miles of drainage area above the proposed project site, the project shall meet the requirements of subsection (c) of this regulation. Before construction, the owner shall apply for and obtain a general permit from the chief engineer. The application shall be filed on a form prescribed by the chief engineer.

(b) Any pipeline or buried cable crossings of streams that have fewer than 50 square miles of drainage area above the proposed project site and that meet the requirements of subsection (c) of this regulation shall not be required to have a permit pursuant to K.S.A. 82a-301 et seq., and amendments thereto.

(c) All pipeline or buried cable crossings covered by this regulation shall meet the following requirements:

(1) Underground pipelines and cables shall be buried at a depth below the stream bed sufficient to prevent ex-

posure. For navigable streams, underground pipelines and cables shall be buried at a minimum depth of seven feet beneath the stream bed. For all other streams, underground pipelines and cables shall be buried at a minimum depth of five feet beneath the stream bed. Pipelines and cables shall be buried sufficiently into the banks to allow for a moderate amount of stream meander without exposure. The minimum depth may be waived if the owner or applicant demonstrates that the underground pipeline or cable is adequately protected against erosion.

(2) After installation, the channel and banks shall be restored to the natural elevations and configurations as nearly as possible. Armoring devices shall be installed when necessary to ensure bank stability. Surplus excavated material shall be disposed of in a manner that will not obstruct the channel or act as a levee.

(d) If any pipeline or buried cable crossing covered by this regulation does not meet the requirements of this regulation, or if the chief engineer determines that a pipeline or cable crossing may have an unreasonable effect on the public interest, public safety, or environmental interests, the right to perform the following shall be reserved by the chief engineer:

(1) Require a nongeneral permit pursuant to K.S.A. 82a-301 et seq., and amendments thereto; and

(2) amend, modify, or revoke the general permit issued in accordance with this regulation. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-303; effective Sept. 22, 2000.)

Jamie Clover Adams  
Secretary of Agriculture

Doc. No. 025615

**INDEX TO ADMINISTRATIVE REGULATIONS**

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the index to the 1997 Volumes of the *Kansas Administrative Regulations* and the 1999 Supplement to the *Kansas Administrative Regulations*.

**AGENCY 1: DEPARTMENT OF ADMINISTRATION**

Reg. No.	Action	Register
1-1-5	New	V. 18, p. 1337
1-2-30	Amended	V. 18, p. 1337
1-2-74	New	V. 18, p. 1337
1-2-84	Amended	V. 18, p. 1337
1-2-84a	New	V. 18, p. 1337
1-2-84b	New	V. 18, p. 1338
1-4-8	Amended	V. 18, p. 1338
1-5-22	Amended	V. 18, p. 1338
1-5-24	Amended	V. 19, p. 1337
1-6-25	Amended	V. 18, p. 1338
1-6-32	Amended	V. 18, p. 1339
1-8-6	Amended	V. 18, p. 1339

1-9-2	Amended	V. 18, p. 1340
1-9-7b	Amended (T)	V. 18, p. 1748
1-9-14	Amended (T)	V. 18, p. 1390
1-9-19a	Amended	V. 18, p. 1341
1-9-23	Amended (T)	V. 19, p. 243
1-9-23	Amended	V. 19, p. 944
1-9-25	Amended	V. 18, p. 1342
1-10-10	New	V. 18, p. 1344
1-10-11	New	V. 18, p. 1345
1-16-18	Amended	V. 18, p. 869
1-16-18a	Amended	V. 18, p. 869
1-18-1a	Amended	V. 18, p. 871
1-18-1a	Amended (T)	V. 19, p. 1157
1-49-1	Amended	V. 19, p. 724

**AGENCY 3: KANSAS STATE TREASURER**

Reg. No.	Action	Register
3-2-1	New	V. 19, p. 1016
3-2-2	New	V. 19, p. 1016
3-2-3	New	V. 19, p. 1016
3-3-1	New (T)	V. 19, p. 1157

**AGENCY 4: DEPARTMENT OF AGRICULTURE**

Reg. No.	Action	Register
4-7-213	Amended	V. 19, p. 117
4-7-214	Amended	V. 19, p. 117
4-7-215	Revoked	V. 19, p. 118
4-7-216	New	V. 19, p. 118
4-20-11	Amended	V. 18, p. 418
4-20-15	New	V. 18, p. 418
4-21-1 through 4-21-6	New	V. 18, p. 418-420

**AGENCY 7: SECRETARY OF STATE**

Reg. No.	Action	Register
7-31-1 through 7-31-4	Revoked	V. 18, p. 672
7-32-1	Amended	V. 19, p. 1269

7-32-2	Amended	V. 19, p. 1269
7-35-1	Amended (T)	V. 18, p. 1389
7-35-1	Amended	V. 18, p. 1879
7-35-2	Amended (T)	V. 18, p. 1390
7-35-2	Amended	V. 18, p. 1879
7-40-1	New	V. 18, p. 1148

**AGENCY 9: ANIMAL HEALTH DEPARTMENT**

Reg. No.	Action	Register
9-14-2	Amended (T)	V. 19, p. 1338
9-15-4	Amended (T)	V. 19, p. 1338
9-20-4	New	V. 18, p. 161
9-29-6	Amended	V. 18, p. 895

**AGENCY 11: STATE CONSERVATION COMMISSION**

Reg. No.	Action	Register
11-7-1 through 11-7-8	Amended	V. 18, p. 1808-1810
11-7-10	Amended	V. 18, p. 1811
11-7-11 through 11-7-15	New	V. 18, p. 1811, 1812
11-9-1 through 11-9-10	New	V. 18, p. 79, 80

**AGENCY 16: ATTORNEY GENERAL**

Reg. No.	Action	Register
16-6-1	Amended	V. 19, p. 399

**AGENCY 17: STATE BANK COMMISSIONER**

Reg. No.	Action	Register
17-22-1	Amended	V. 19, p. 500
17-23-16	Amended	V. 19, p. 500
17-24-1	New	V. 18, p. 956
17-24-2	New	V. 18, p. 956

AGENCY 22: STATE FIRE MARSHAL

Table with 3 columns: Reg. No., Action, Register. Rows include 22-19-1 Amended, 22-19-2 Amended, 22-19-3 Amended, 22-19-4a New.

AGENCY 25: DEPARTMENT OF AGRICULTURE (KANSAS STATE GRAIN INSPECTION)

Table with 3 columns: Reg. No., Action, Register. Row: 25-5-1 New.

AGENCY 26: DEPARTMENT ON AGING

Table with 3 columns: Reg. No., Action, Register. Rows include 26-1-2 Amended, 26-1-4 Amended, 26-1-6 Amended, 26-1-9 New, 26-2-4 Amended, 26-2-7 Amended, 26-2-9 Amended, 26-3-1 Amended, 26-3-3 Revoked, 26-3-5 Amended, 26-8-4 Revoked.

AGENCY 27: STATE CORPORATION COMMISSION (KANSAS ENERGY OFFICE)

Table with 3 columns: Reg. No., Action, Register. Row: 27-2-1 Revoked.

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Table with 3 columns: Reg. No., Action, Register. Rows include 28-1-2 Amended, 28-1-6 Amended, 28-1-18 Amended, 28-1-25 Revoked, 28-1-26 New, 28-4-330 through 28-4-343 New (T), 28-4-330 through 28-4-343 New, 28-4-501 Amended, 28-4-503 Amended, 28-4-504 Amended, 28-4-505 Amended, 28-4-513 Amended, 28-4-530 Revoked, 28-4-531 Revoked, 28-16-28b through 28-16-28f Amended, 28-17-15 Amended (T), 28-17-15 Amended, 28-19-50 Revoked, 28-19-52 Revoked, 28-19-201 Amended, 28-19-650 New, 28-19-720 Amended, 28-19-729 New, 28-19-729a through 28-19-729h New, 28-19-735 Amended, 28-19-750 Amended, 28-19-751 Revoked, 28-19-752 Revoked, 28-19-752a New, 28-23-81 through 28-23-89 Revoked, 28-19-751 Revoked, 28-19-752 Revoked, 28-19-752a New, 28-23-81 through 28-23-89 Revoked, 28-29-3 Amended, 28-29-17a Revoked, 28-29-17b Revoked, 28-29-25a New, 28-29-25b New, 28-29-25c New, 28-29-25e New.

Table with 3 columns: Reg. No., Action, Register. Rows include 28-29-25f New, 28-29-26 Revoked, 28-29-98 Revoked, 28-29-1100 through 28-29-1107 New, 28-29-2101 through 28-29-2113 New, 28-31-1 Amended, 28-31-2 Amended, 28-31-3 Amended, 28-31-4 Amended, 28-31-6 Amended, 28-31-8 Amended, 28-31-8b Amended, 28-31-9 Amended, 28-31-10 Amended, 28-31-12 Amended, 28-31-13 Amended, 28-31-14 Amended, 28-31-15 New, 28-31-16 New, 28-36-10 through 28-36-18 Revoked, 28-36-20 through 28-36-29 Revoked, 28-36-101 through 28-36-108 New, 28-36-10 through 28-36-18 Revoked, 28-36-20 through 28-36-29 Revoked, 28-36-101 through 28-36-108 New, 28-38-18 through 28-38-23 Amended, 28-38-26 Amended, 28-38-28 Amended, 28-38-29 Amended, 28-38-30 New, 28-39-133 Revoked, 28-39-134 through 28-39-137 Revoked, 28-39-144 Amended, 28-39-145 Revoked, 28-39-145a New, 28-39-152 Amended, 28-39-160 Amended, 28-39-161 Amended, 28-39-162a Amended, 28-39-162c Amended, 28-39-163 Amended, 28-39-240 Amended, 28-39-245 Amended, 28-39-247 Amended, 28-39-275 through 28-39-291 New, 28-39-300 through 28-39-312 Revoked, 28-39-425 through 28-39-437 New, 28-50-1 Amended, 28-50-2 Amended, 28-50-4 Amended, 28-50-5 Amended, 28-50-6 Amended, 28-50-7 Revoked, 28-50-8 Amended, 28-50-9 Amended, 28-50-10 Amended, 28-50-14 Amended, 28-65-1 Amended, 28-65-2 Amended, 28-65-3 Amended, 28-72-1 New (T), 28-72-1 New, 28-72-2 New (T).

Table with 3 columns: Reg. No., Action, Register. Rows include 28-72-2 New, 28-72-3 New (T), 28-72-3 New, 28-72-4 New (T), 28-72-4 New, 28-72-4a New (T), 28-72-4a New, 28-72-4b New (T), 28-72-4b New, 28-72-4c New (T), 28-72-4c New, 28-72-5 New (T), 28-72-5 New, 28-72-6 New (T), 28-72-6 New, 28-72-7 New (T), 28-72-7 New, 28-72-8 New (T), 28-72-8 New, 28-72-9 New (T), 28-72-9 New, 28-72-10 New (T), 28-72-10 New, 28-72-11 New (T), 28-72-11 New, 28-72-12 New (T), 28-72-12 New, 28-72-13 New (T), 28-72-13 New, 28-72-14 New (T), 28-72-14 New, 28-72-15 New (T), 28-72-15 New, 28-72-16 New (T), 28-72-16 New, 28-72-17 New (T), 28-72-17 New, 28-72-18 New (T), 28-72-18 New, 28-72-18a New (T), 28-72-18a New, 28-72-18b New (T), 28-72-18b New, 28-72-18c New (T), 28-72-18c New, 28-72-18d New (T), 28-72-18d New, 28-72-18e New (T), 28-72-18e New, 28-72-19 New (T), 28-72-19 New, 28-72-20 New (T), 28-72-20 New, 28-72-21 New (T), 28-72-21 New, 28-72-22 New (T), 28-72-22 New, 28-72-51 through 28-72-54 New.

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

Table with 3 columns: Reg. No., Action, Register. Rows include 30-2-12 Amended, 30-2-16 Amended, 30-4-64 Amended, 30-5-64 Amended, 30-5-309 Amended, 30-6-59 Revoked, 30-6-86 Amended, 30-6-103 Amended, 30-14-30 Amended, 30-44-2 Amended.

AGENCY 36: DEPARTMENT OF TRANSPORTATION

Table with 3 columns: Reg. No., Action, Register. Rows include 36-2-3 Revoked, 36-2-4 Revoked, 36-2-6 Revoked, 36-2-8 through 36-2-13 Revoked.

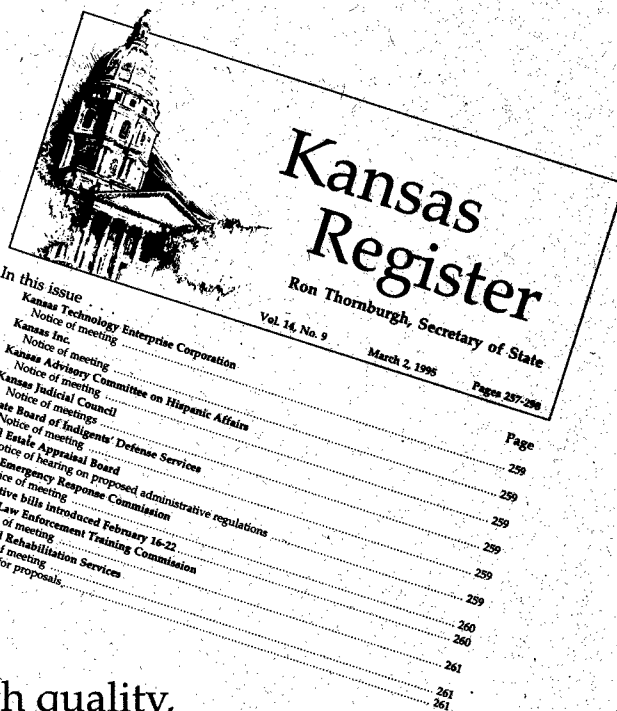






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