

Kansas Moratorium Report on Regulation Changes 2017

Kansas Water Appropriation Act

In December 2017, Kansas adopted the following Kansas Administrative Regulation revisions:

K.S.A. 82a-708a. Applications for permits to appropriate water; fee. (a) Any person may apply for a permit to appropriate water to a beneficial use, notwithstanding that the application pertains to the use of water by another, or upon or in connection with the lands of another. Any rights to the beneficial use of water perfected under such application shall attach to the lands on or in connection with which the water is used and shall remain subject to the control of the owners of the lands as in other cases provided by law.

(b) Except as otherwise provided in subsections (d), (e) and (f), each application for a permit to appropriate water, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of acre feet in accordance with the following: Acre Feet Fee

0 to 100	\$200
101 to 320	\$300
More than.....	\$300 + \$20

for each additional 100
acre feet or any part thereof

On and after July 1, 2023, the application fee shall be fixed by this section for the appropriate category of acre feet in accordance with the following:

Acre Feet Fee

0 to 100	\$100
101 to 320	\$150
More than 320.....	\$150 + \$10

for each additional 100
acre feet or any part thereof

The chief engineer shall render a decision on such permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(c) Except as otherwise provided in subsections (d), (e) and (f), each application for a permit to appropriate water for storage, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of storage-acre feet in accordance with the following:

Storage-Acre Feet Fee

0 to 250	\$200
More than 250.....	\$200 + \$20

for each additional 250
storage-acre feet or any part thereof

On and after July 1, 2023, the application fee shall be fixed by this section for the appropriate category of storage-acre feet in accordance with the following:

Storage-Acre Feet Fee

0 to 250 \$100

More than 250..... \$100 + \$10

for each additional 250

storage-acre feet or any part thereof

The chief engineer shall render a decision on such permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(d) Each application for a term permit pursuant to K.S.A. 2016 Supp. 82a-736, and amendments thereto, shall be accompanied by an application fee established by rules and regulations of the chief engineer in an amount not to exceed \$400 for the five-year period covered by the permit.

(e) For any application for a permit to appropriate water, except applications for permits for domestic use, which proposes to appropriate by both direct flow and storage, the fee charged shall be the fee under subsection (b) or subsection (c), whichever is larger, but not both fees.

(f) Each application for a permit to appropriate water for water power or dewatering purposes shall be accompanied by an application fee of \$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the diversion rate requested in the application for the proposed project.

(g) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

History: L. 1957, ch. 539, § 3; L. 1973, ch. 414, § 1; L. 1982, ch. 4, § 17; L. 1985, ch. 339, § 1; L. 1989, ch. 310, § 1; L. 2001, ch. 160, § 17; L. 2002, ch. 181, § 21; L. 2004, ch.85, § 16; July 1; L.2009, ch. 51, § 2; L. 2014, ch. 133, § 9; July 1; L. 2017, ch. 86, § 13; July 1.

K.S.A. 82a-708b. Application for change in place of use, point of diversion or use; fee; review of action on application.

(a) Any owner of a water right may change the place of use, the point of diversion or the use made of the water, without losing priority of right, provided such owner shall: (1) Apply in writing to the chief engineer for approval of any proposed change; (2) demonstrate to the chief engineer that any proposed change is reasonable and will not impair existing rights; (3) demonstrate to the chief engineer that any proposed change relates to the same local source of supply as that to which the water right relates; and (4) receive the approval of the chief engineer with respect to any proposed change. The chief engineer shall approve or reject the application for change in accordance with the provisions and procedures prescribed for processing original applications for permission to appropriate water. If the chief engineer disapproves the application for change, the rights, priorities and duties of the applicant shall remain unchanged. Any person aggrieved by an order or decision by the chief engineer relating to an application for change may petition for review thereof in accordance with the provisions of K.S.A. 2016 Supp. 82a-1901, and amendments thereto.

(b) Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

(1) Application to change a point of diversion 300 feet or less..... \$100

(2) Application to change a point of diversion more than 300 feet..... 200

- (3) Application to change the place of use..... 200
 - (4) Application to change the use made of the water..... 300
- On and after July 1, 2023, the application fee shall be set forth in the schedule below:
- (1) Application to change a point of diversion 300 feet or less..... \$ 50
 - (2) Application to change a point of diversion more than 300 feet..... 100
 - (3) Application to change the place of use..... 100
 - (4) Application to change the use made of the water..... 150

The chief engineer shall render a decision on such permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(c) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

History: L. 1957, ch. 539, § 4; L. 1982, ch. 4, § 18; L. 1985, ch. 339, § 2; L. 1990, ch. 361, § 1; L. 1999, ch. 130, § 4; L. 2002, ch. 181, § 22; L. 2004, ch.85, § 17; L.2009, ch. 51, § 3; L. 2014, ch. 133, § 10; July 1; L. 2017, ch. 86, § 14; July 1.

K.S.A. 82a-708c. Application for term permits to appropriate water; fee. (a) A term permit is a permit to appropriate water for a limited specified period of time in excess of six months. At the end of the specified time, or any authorized extension approved by the chief engineer, the permit shall be automatically dismissed, and any priority it may have had shall be forfeited. No water right shall be perfected pursuant to a term permit.

(b) Each application for a term permit to appropriate water shall be made on a form prescribed by the chief engineer and shall be accompanied by an application fee fixed by this section for the appropriate category of acre feet in accordance with the following:

Acre Feet

Fee 0 to 100	\$200
101 to 320	\$300
More than 320	\$300 + \$20

for each additional 100 acre feet or any part thereof

On and after July 1, 2023, the application fee shall be set forth in the schedule below:

Acre Feet Fee 0 to 100	\$100
101 to 320	\$100
More than 320	\$150 + \$10

for each additional 100 acre feet or any part thereof

The chief engineer shall render a decision on such term permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(c) Each application for a term permit to appropriate water for storage, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of storage-acre feet in accordance with the following: Storage-Acre Feet

Fee

0 to 250	\$200
More than 250	\$200 + \$20

for each additional 250 acre feet or any part thereof

On and after July 1, 2023, the application fee shall be set forth in the schedule below:

Storage-Acre Feet Fee 0 to 250	\$100
More than 250	\$100 + \$10 for each additional 250 acre feet or any part thereof

The chief engineer shall render a decision on such term permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(d) Each application for a term permit pursuant to K.S.A. 2015 Supp. 82a-736, and amendments thereto, shall be accompanied by an application fee established by rules and regulations adopted by the chief engineer in an amount not to exceed \$400 for the five-year period covered by the permit.

(e) Notwithstanding the provisions of K.S.A. 82a-714, and amendments thereto, the applicant is not required to file a notice of completion of diversion works nor pay a field inspection fee. The chief engineer shall not conduct a field inspection of the diversion works required by statute for purposes of certification nor issue a certificate of appropriation for a term permit.

(f) A request to extend the term of a term permit in accordance with the rules and regulations adopted by the chief engineer shall be accompanied by the same filing fee applicable to other requests for extensions of time as set forth in K.S.A. 82a-714, and amendments thereto. (g) An application to change the place of use, point of diversion, use made of water, or any combination thereof, pursuant to K.S.A. 82a-708b, and amendments thereto, shall not be approved for a term permit, except as provided in K.S.A. 82a-736, and amendments thereto.

(h) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

History: L. 2009, ch. 51, § 2; L. 2014, ch. 133, § 11; July 1; L. 2015, ch. 60, § 2; July 1; L. 2016, ch. 23, § 1; July 1; L. 2017, ch. 86, § 15; July 1.

K.S.A. 82a-714. Same; completion of works; extension of time; certificate of appropriation; fees.

(a) Upon the completion of the construction of the works and the actual application of water to the proposed beneficial use within the time allowed, the applicant shall notify the chief engineer to that effect. The chief engineer or the chief engineer's duly authorized representative shall then examine and inspect the appropriation diversion works and, if it is determined that the appropriation diversion works have been completed and the appropriation right perfected in conformity with the approved application and plans, the chief engineer shall issue a certificate of appropriation in duplicate. The original of such certificate shall be sent to the owner and shall be recorded with the register of deeds in the county or counties wherein the point of diversion is located, as are other instruments affecting real estate, and the duplicate shall be made a matter of record in the office of the chief engineer.

(b) Not later than 60 days before the expiration of the time allowed in the permit to complete the construction of the appropriation diversion works or the time allowed in the permit to actually apply water to the proposed beneficial use, the chief engineer shall notify the permit holder by

certified mail that any request for extension of such time must be filed with the chief engineer before the expiration of the time allowed in the permit.

(c) Unless the applicant requests an extension or the certificate has not been issued due to the applicant's failure to comply with reasonable requests for information or to allow the opportunity to examine and inspect the appropriation diversion works, as necessary for certification, the chief engineer shall certify an appropriation:

(1) Before July 1, 2004, if the time allowed in the permit to perfect the water right expired before July 1, 1999, except in those cases in which abandonment proceedings pursuant to K.S.A. 82a-718, and amendments thereto, are pending on July 1, 2004;

(2) before July 1, 2006, in such cases in which an abandonment proceeding was pending pursuant to K.S.A. 82a-718, and amendments thereto, on July 1, 2004; or

(3) not later than five years after the date the applicant notifies the chief engineer of the completion of construction of the works and the actual application of water to the proposed beneficial use within the time allowed, in all other cases. If the chief engineer fails to issue a certificate within the time provided by this subsection, the applicant may request review, pursuant to K.S.A. 2016 Supp. 82a-1901, and amendments thereto, of the chief engineer's failure to act.

(d) Except for works constructed to appropriate water for domestic use, each notification to the chief engineer under subsection (a) shall be accompanied by a field inspection fee of \$400, or on and after July 1, 2023, a fee of \$200, except that for applications filed on or after July 1, 2009, for works constructed for sediment control use and for evaporation from a groundwater pit for industrial use shall be accompanied by a field inspection fee of \$200. Failure to pay the field inspection fee, after reasonable notice by the chief engineer of such failure, shall result in the permit to appropriate water being revoked, forfeiture of the priority date and revocation of any appropriation right that may exist.

(e) A request for an extension of time to: (1) Complete the diversion works; or (2) perfect the water right, shall be accompanied by a fee of \$50, or commencing July 1, 2002, and ending June 30, 2023, a fee of \$100.

(f) A request to reinstate a water right or a permit to appropriate water which has been dismissed shall be filed with the chief engineer within 60 days of the date dismissed and shall be accompanied by a fee of \$100, or commencing July 1, 2002, and ending June 30, 2023, a fee of \$200.

(g) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

History: L. 1945, ch. 390, § 14; L. 1957, ch. 539, § 20; L. 1985, ch. 339, § 3; L. 1990, ch. 362, § 1; L. 1999, ch. 130, § 6; L. 2002, ch. 181, § 23; L. 2004, ch.165, § 2; May 27; L.2009, ch. 51, § 4; L. 2014, ch. 133, § 12; July 1; L. 2017, ch. 86, § 16; July 1.

K.S.A. 82a-716. Common-law claimants; action for compensation; injunctions. If any appropriation, or the construction and operation of authorized diversion works results in an injury to any common-law claimant, such person shall be entitled to due compensation in a suitable action at law against the appropriator for damages proved for any property taken. Any person with a valid water right or permit to divert and use water may, after first exhausting the

remedies available under K.S.A. 82a-717a, and amendments thereto, restrain or enjoin in any court of competent jurisdiction a subsequent diversion by a common-law claimant without vested rights without first condemning those common-law rights. After first exhausting the remedies available under K.S.A. 82a-717a, and amendments thereto, an appropriator shall have the right to injunctive relief to protect his or her prior right of beneficial use as against use by an appropriator with a later priority of right.

History: L. 1945, ch. 390, § 16; L. 1957, ch. 539, § 21; June 29; L. 2017, ch. 55, § 1; July 1.

K.S.A. 82a-717a. Diversions by common-law claimants and others; injunctions. (a) No common-law claimant without a vested right, or other person without a vested right, a prior appropriation right, or an earlier permit shall divert or threaten to divert water if such diversion or threatened diversion impairs or would impair any vested right, appropriation right, or right under a permit to appropriate water. But any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier permit may divert water in accordance with any such right or permit although such diversion or use thereunder conflicts with the diversion, use, proposed diversion, or proposed use made or proposed by a common-law claimant who does not have a vested right, or other person who does not have a vested right, a prior appropriation right or an earlier permit.

(b) (1) Any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier permit may, in accordance with this subsection, obtain an order from the chief engineer that limits, curtails or prevents any diversion or proposed diversion that impairs or would impair such right in the event that any such diversion or proposed diversion is made or is threatened to be made by any common-law claimant, or other person who does not have a vested right, a prior appropriation right, or an earlier permit.

(2) Any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier permit who claims impairment of such right by any other person without a prior right to the same water shall submit a complaint to the chief engineer in accordance with rules and regulations of the chief engineer.

(A) Within two weeks of receiving a complaint of impairment, the chief engineer shall initiate an investigation of such complaint and provide notice of such investigation to the complainant and the allegedly impairing party or parties. As part of the investigation, the chief engineer shall provide an opportunity for the parties to submit any relevant information, including submission of an engineering study that meets standards designated by the chief engineer through rules and regulations.

(B) Following the investigation, the chief engineer may issue an order, consistent with K.S.A. 82a-706b, and amendments thereto, and rules and regulations of the chief engineer, that limits, curtails or prevents the diversion and use of water by any person without a prior right to the same water or that otherwise disposes of the complaint.

(C) The chief engineer shall complete any investigation initiated pursuant to this subsection within 12 months of the date the complaint was submitted to the chief engineer, provided that the chief engineer may extend the investigation for good cause by notifying the parties in writing of the amount of time needed to complete the investigation.

(3) Concurrent with submission of a complaint under paragraph (2), or during the pendency of the chief engineer's investigation pursuant to the complaint, the complainant may

petition the chief engineer to issue a temporary order, to be effective until a final order is issued under paragraph (2)(B), that limits, curtails or prevents the diversion and use of water by any person without a prior right to the same water upon a finding by the chief engineer that a substantial likelihood exists that impairment is occurring or will occur and that an order limiting, curtailing or preventing diversion and use of water by any person without a prior right to the same water would not be adverse to the public interest.

(4) Any order issued by the chief engineer pursuant to this subsection is subject to review in accordance with the Kansas judicial review act.

History: L. 1957, ch. 539, § 19; June 29; L. 2017, ch. 55, § 2; July 1.

K.S.A. 82a-727. Temporary permits to appropriate water; extension; fee; rules and regulations.

(a) Subject to existing water rights and the principle of beneficial use, the chief engineer may grant upon application made therefor temporary permits and extensions thereof to appropriate water in any case where the public interest in such water will not be unreasonably or prejudicially affected, except that the chief engineer shall not grant any such permit to appropriate fresh water in any case where other waters are available for the proposed use and the use thereof is technologically and economically feasible. No such temporary permit or any extension thereof shall be granted for a period of time in excess of six months. Each application submitted for a temporary permit or extension thereof shall be accompanied by an application fee of \$200, or on and after July 1, 2023, a fee of \$100.

(b) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

(c) Nothing in this section shall be deemed to vest in the holder of any permit granted pursuant to provisions of this section any permanent right to appropriate water except as is provided by such permit.

(d) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

History: L. 1977, ch. 356, § 1; L. 1982, ch. 4, § 19; L. 1985, ch. 339, § 4; L. 2002, ch. 181, § 24; L. 2004, ch.85, § 19; July 1; L. 2009, ch. 51, § 5; L. 2014, ch. 133, § 13; July 1; L. 2017, ch. 86, § 17; July 1.

K.S.A. 82a-737. Civil enforcement of act. (a) As used in this section:

(1) “Chief engineer” means the chief engineer of the division of water resources of the department of agriculture.

(2) “Secretary” means the secretary of agriculture.

(b) Any person who commits any of the following may incur a civil penalty as provided by this section:

(1) Any violation of the Kansas water appropriation act, K.S.A. 82a- 701 et seq., and amendments thereto), or any rule and regulation adopted thereunder;

(2) any violation of an order issued pursuant to K.S.A. 82a-1038, and amendments thereto, relating to an intensive groundwater use control area; or

(3) any violation of a term, condition or limitation imposed by the chief engineer as authorized by law, including, but not limited to: (A) Diversion of water from an unauthorized point of diversion; (B) failure to limit the use of water to the authorized place of use; (C) failure to submit or comply with the terms of conservation plans as required pursuant to K.S.A. 82a-733, and amendments thereto; (D) failure to comply with the maximum annual quantity or rate of diversion authorized; (E) failure to properly install, maintain or assure the accuracy of acceptable water measurement devices; (F) failure to comply with orders related to minimum desirable stream flow, unlawful diversion, impairment of senior water rights or waste of water; or (G) failure to limit the use of water to an authorized type of use.

(c) The amount of the civil penalty provided for by this section shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law.

(d) The chief engineer or the chief engineer's duly authorized agent, upon a finding that a person has committed a violation specified in subsection (b), may order the modification or suspension of the person's water right or use of water, in addition to any other penalty provided by law.

(e) No civil penalty or suspension or modification of a water right or use of water shall be imposed pursuant to this section except on the written order of the chief engineer or duly authorized agent of the chief engineer. Such order shall state the nature of the violation, the factual basis for the finding, the penalty to be imposed and the appropriate procedure for appeal of the order, as established by K.S.A. 2016 Supp. 82a-1901, and amendments thereto.

(f) Any person aggrieved by an order of the chief engineer, or the chief engineer's duly authorized agent, pursuant to this section may request a hearing or review as provided by K.S.A. 2016 Supp. 82a-1901, and amendments thereto, and, upon exhaustion of administrative remedies, may appeal to the district court in the manner provided by the Kansas judicial review act.

(g) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.

History: L. 2001, ch. 160, § 14; July 1; L. 2010, ch 17, § 213, July 1; L. 2017, ch. 23, § 4; July 1.

K.S.A. 82a-745. Water conservation areas; establishment procedures; duties of chief

engineer; notice; orders; consent agreement; review. (a) Any water right owner or a group of water right owners in a designated area may enter into a consent agreement and order with the chief engineer to establish a water conservation area. The water right owner or group of water right owners shall submit a management plan to the chief engineer. Such management plan shall be the basis of the consent agreement and order designating a water conservation area and shall:

(1) Include clear geographic boundaries;

(2) include the written consent of all participating water right owners within the geographic boundaries described in paragraph (1) to enter into the consent agreement and order;

(3) include a finding or findings that one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist, or include a finding or findings that the area

within the geographic boundaries described in paragraph (1) has been closed to new appropriations by rule, regulation or order of the chief engineer;

(4) include provisions regarding the proposed duration of the water conservation area and any process by which water right owners may request to be added or removed from the water conservation area;

(5) include goals and one or more of the corrective control provisions provided in subsection (b);

(6) give due consideration to water users who have previously implemented reductions in water use resulting in voluntary conservation measures;

(7) include compliance monitoring and enforcement; and

(8) be consistent with state law.

(b) A consent agreement and order of designation of a water conservation area pursuant to this section shall define the boundaries of the water conservation area and may include any of the following corrective control provisions:

(1) Closing the water conservation area to any further appropriation of groundwater. In which event, the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area;

(2) determining the permissible total withdrawal of groundwater in the water conservation area each day, month or year, and apportioning such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights;

(3) reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the water conservation area;

(4) requiring and specifying a system of rotation of groundwater use in the water conservation area; and

(5) any other provisions necessary to effectuate agreed-upon water conservation goals consistent with the public interest. The chief engineer shall be responsible for the monitoring and enforcement of any corrective control provisions ordered for a water conservation area.

(c) The order of designation shall be in full force and effect from the date of its entry in the records of the chief engineer's office. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order and shall file a copy of the same with the register of deeds of any county within which any part of the water conservation area lies.

(d) If any corrective control provisions of a water conservation area conflict with rules and regulations of a groundwater management district or requirements of a local enhanced management plan or intensive groundwater use control area that result in greater overall conservation of water resources within which a participating water right is situated, the chief engineer is authorized to amend the provisions of the water conservation area to conform to any rules and regulations or requirements that result in greater conservation of water resources, as determined by the chief engineer.

(e) To provide flexibility in the management of water resources, as part of the consent agreement and order of designation, the chief engineer may authorize a management plan that allots water authorized by existing water rights, subject to the following limitations:

(1) The management plan shall be limited to the term of the water conservation area;

(2) the management plan may allow, in any given calendar year, the water use of an individual water right or rights to exceed the annual authorized quantity of the individual water right or

rights participating in the management plan, provided that the water use shall not exceed the total annual authorized aggregate quantity and rate of all the water rights participating in the management plan in any given calendar year;

(3) the authority granted through the management plan shall supersede the participating water rights during the term of the water conservation area or until the management plan is suspended by the chief engineer in accordance with this subsection; and

(4) for purposes of determining priority, the management plan shall be assigned the priority date of its effectuation.

(f) In addition to a management plan under subsection (e), as a part of the consent agreement and order of designation, the chief engineer may include the use of multi-year flex accounts as authorized by K.S.A. 2016 Supp. 82a-736, and amendments thereto.

(g) No management plan authorized under a water conservation area shall be allowed to impair any water right. At any time during the term of a water conservation area, if the chief engineer determines that impairment may be occurring, following a complaint and preliminary investigation into relevant physical facts, the chief engineer may suspend operation of the water conservation area. In the event of such suspension, each participating water right may be operated in accordance with its permitted terms and conditions as in effect prior to operation of the water conservation area. Upon conclusion of an investigation by the chief engineer and a finding of impairment, the chief engineer may terminate the water conservation area, or may modify the water conservation area subject to consent of the participating water right owners, to alleviate any impairment.

(h) Prior to execution of a proposed water conservation area consent agreement and order of designation pursuant to this section, the chief engineer shall notify in writing the groundwater management district within which any participating water right is situated. Such groundwater management district shall be given an opportunity to provide a written recommendation regarding the proposed water conservation area and management plan within 45 days of notification by the chief engineer. The review period may be extended by up to 30 days upon approval by the chief engineer. Subject to subsection (d), any participating water right in a water conservation area shall continue to be subject to all applicable rules and regulations and management plans of the groundwater management district in which the water right is situated.

(i) The chief engineer shall provide notification, as specified in K.S.A. 2016 Supp. 82a-1906, and amendments thereto, to all water right owners with a point of diversion within 1/2 a mile, or farther if deemed necessary by a rule and regulation of the chief engineer, of the boundaries of a water conservation area. Notification shall include a reference to an electronic publication of the management plan and any relevant technical analysis.

(j) The consent agreement and order of designation shall provide for periodic review of the consent agreement and order, which may be initiated by the chief engineer or upon request of the water right owners in the water conservation area. The consent agreement and order shall specify the frequency of such periodic review, but a review shall be conducted at least once every 10 years.

(k) (1) The chief engineer may, with the consent of all participating water right owners, amend a consent agreement and order of designation in order to:

(A) Modify corrective control provisions or the boundaries of the designated area;

(B) add or remove water rights upon request of such water right owners;

- (C) terminate a water conservation area upon the request of the water right owners in the designated area; or
- (D) make other changes the water right owners may request.
- (2) Any amendments to a consent agreement and order of designation, except amendments that remove a water right upon request of the owner so long as the consent of all participating water right owners is not required pursuant to the management plan, shall be consented to by all participating water right owners within the designated area and the chief engineer and shall be based upon a revised management plan submitted by the participating water right owners.
- (l) No water right shall be perfected pursuant to a water conservation area.
- (m) Notwithstanding K.S.A. 82a-1039, and amendments thereto, nothing in this section shall be construed as limiting or affecting any duty or power of a groundwater management district granted to such district by the Kansas groundwater management district act.
- (n) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.
- (o) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.

History: L. 2015, ch. 37, § 1; July 1; L. 2017, ch. 55: § 4; July 1.

From:

KANSAS WATER APPROPRIATION ACT
K.S.A. 82a-701 through 82a-722, 82a-724 through 82a-734a,
82a-736, 82a-737,
82a-741 through 82a-745 and
K.S.A. 42-303 and 42-313
Revised July, 2017