

MEMO

TO: Board of Directors  
DATE: October 28, 2004  
FROM: Dan Smith  
SUBJECT: Modifications

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Several modifications have been made to the rules and regulations that were proposed for the Hearing in McCook on October 6<sup>th</sup>, 2004. Some of these were as a result of testimony, discussion with the city of McCook, discussion with DNR and Board action. This summary does not include corrections or changes that added spaces or missing words, punctuation marks, grammar or spelling. Some changes were made to rule references because of the addition movement or deletion of rules. In general those changes are not included unless they were relevant to other changes. NRRS 46-718 states that the controls adopted should not be substantially different from those set forth in the notice of hearing. ~~Substantially different has been interpreted as being more restrictive.~~ I feel the changes we have considered are less restrictive and comply with the intent of 46-718.

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Enclosed with this memo is a summary of the modifications and a letter from Roger Patterson acknowledging your action of October 12<sup>th</sup>, 2004. As you can see from the letter Roger is conditioning his response on the effectiveness of the incentive programs. I did not include another copy of the rules with this mailing. The only modifications to be considered from the copy I sent you last week are numbers 18 and 19 on the enclosed list. That copy had a 10/18/04 date in the page headers. The cover's last line was:

Draft-Sept 2004, edited Oct 12, 2004 DNR edits Oct 18, 2004

I will have a clean copy that reflects all these changes at the board meeting. The latest changes are on the website.

I am also enclosing a condensed version of the Interrelated Water Review Board statute that was previously provided to you. Situation 1 has been passed. Any future disputes over modifications or implementation would be addressed through either situation 2 or 3.

Consideration of the Rules and Regulations and the Integrated Management Plan will be on the November 9<sup>th</sup> agenda.

GWMA & IMP  
Modifications to  
Rules Proposed  
At a Public Hearing  
October 6<sup>th</sup> 2004

These modifications were presented at the hearing (municipal changes) or were proposed by the Committee and DNR at the October 8<sup>th</sup> meeting.

1. 3-1.37 Definition of Public Water System. Renumbering of definitions after that.
2. 3-1.42 Definition of Replacement Well Change from 3 years to 1 year to reflect the language approved in the settlement.
3. 4-1.2 Revised language for public water system wells.
4. 4-7.1 Deleted language and added language from rule 5-5.1.
5. 4-8 New language added to further explain incentive programs.
6. 5-1 Transfer permits. 5-1.1 language added to refer to irrigation purposes. 5-1.2 language added to further define process for Municipal transfer permits. 5-1.3 added for Industrial transfers. Renumbering.
7. 5-3.4 Rewording and new language to better explain process for municipal allocations.

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8. 5-3.7 Allocation year changed from October 1 to September 30 to January 1 to December 31. 5-3.8, 5-3.9, 5-3.10 and 5-3.11 also.
9. 5-3.11 Language added to better describe transfers and delivery of surface water.
10. 5-3.15 Language added "For irrigation purposes"
11. 5-3.16 Language added for EQIP incentives and prevented planting as programs that do not receive an allocation while participating in those programs.
12. 5-5 Language deleted and moved to 4-7.1. Renumbering
13. Chapter 6, Goal 2. Language added for failure of other NRDs to take action
14. Chapter 6, Objective 6. New language on vegetative growth.

Board Change October 12<sup>th</sup>.

15. 5-3.8 and 5-3.9 Language relating to reductions in base certification in water short years and consecutive water short years deleted.

DNR edits and changes since October 12<sup>th</sup> board action.

16. 4-7.3 Strike language referring to rules 5-3.9 and 5-3.11. Renumbering
17. 5-3.8 and 5-3.9 add "subject to any changes made pursuant to Rule 4-7"

New modifications recommended by staff and agreed to by DNR

18. 5-3.16 line 2, change preventative to prevented
19. 5-5.1 Change last sentence to ... pursuant to Rule 4-7. I think this makes it a little clearer. 5-3.9 only referred to the QR subarea and rule 4-7 is what you will have to come back to for changes.