

RULES
AND
REGULATIONS

5-23-1. Definitions. As used in these rules and regulations, the following words and phrases shall have the following meanings.

- (a) Abandoned well means: (1) A well for which all intended uses have been permanently discontinued; or (2) Any well that is in such a state of disrepair that using it for the purpose of obtaining groundwater is impracticable.
- (b) Board means the board of directors constituting the governing body of the Southwest Kansas Groundwater Management District No. 3.
- (c) Confined aquifer means: (1) An aquifer overlain and underlain by impermeable layers; or (2) An aquifer in which the groundwater is under pressure greater than atmospheric pressure and which will rise in a well above the point at which it is first encountered.
- (d) District means the Southwest Kansas Groundwater Management District No. 3.
- (e) Substantially means within 300 feet of the approved location, but in no case closer to other wells than the minimum spacing requirements allow.
- (f) Tailwater means that portion of the applied irrigation water which becomes run-off from the authorized place of use.
- (g) Tailwater re-use system means a facility to collect, store and transport irrigation tailwater for re-application to the authorized place of use.
- (h) Unconfined aquifer means an aquifer containing free groundwater in which the groundwater is at atmospheric pressure and the upper surface of the aquifer is the water table.
- (i) Waste of water means: (1) Groundwater which has been diverted or withdrawn from a source of supply and which is not used, managed or re-applied to a beneficial use on or in conjunction with land authorized as the place of use by a vested right, an appropriation right or an approved application for permit to appropriate water for beneficial use; (2) Any act or omission causing 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) Groundwater which an irrigator permits to escape and drain from the authorized place of use; or (4) Groundwater applied to an authorized beneficial use in the excess of the needs for such use.
- (j) Well means any excavation that is drilled, cored, bored, washed, driven, dug or otherwise construction when the intended use of such excavation is for the acquisition, diversion, or artificial recharge of groundwater.
- (k) Aquifer means a geologic water-bearing formation that will yield water in sufficient quantity to supply pumping wells and springs.
- (l) Consolidated aquifer means consolidated rocks that will yield water in sufficient quantity to supply pumping wells and springs.

(m) Consolidated rocks means mineral particles of different sizes and shapes that have been welded by heat and pressure or by chemical reactions into a solid mass, commonly referred to as bedrock, which may, or may not, contain water.

(n) Unconsolidated aquifer means unconsolidated deposits that will yield water in sufficient quantity to supply pumping wells and springs.

(o) Unconsolidated deposits means material derived from the disintegration of consolidated rocks, including clay, silt, sand, gravel and caliche, which may, or may not, contain water. (Authorized by K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective May 1, 1981; amended May 1, 1985.)

5-23-2. Tailwater control and waste. No water user shall allow waste of water. If the water is re-used, the user shall apply the water consistent with the approved application to appropriate water for beneficial use, vested right or appropriation right. All water users shall construct and operate the water distribution systems in a manner as to prevent the waste of water, and shall do everything necessary and proper to preserve the quality of the groundwater resources within the district. (Authorized by K.S.A. 82a1028(o); effective May 1 1981.)

5-23-3. Well spacing requirements. (a) All well locations described in applications for a permit to appropriate water for beneficial use, other than domestic, which propose the diversion or withdrawal of water from the unconsolidated aquifer, commonly described as the Ogallala aquifer, or an alluvial aquifer, or both, shall be placed so that spacing between that well and all other non-domestic wells meets the following well spacing requirements:

Acre feet requested annually	Spacing requirement
6-200.....	1300 feet
201-300.....	1600 feet
301-400.....	1900 feet
401-500.....	2100 feet
501-or more.....	2300 feet

Wells for which an annual diversion of five acre feet or less is requested shall be spaced a sufficient distance to prevent direct impairment.

(b) All well locations described in applications for a permit to appropriate water for beneficial use, other than domestic, which propose the diversion or withdrawal of water from a consolidated bedrock aquifer shall be located in an area in which there is a distinct impermeable separation between the consolidated aquifer and the overlying unconsolidated aquifer, and shall meet the following well spacing requirements from all other non-domestic wells:

(1) The minimum spacing between consolidated wells approved for more than 100 acre feet per year shall be two miles. For wells approved for 25 through 100 acre feet per year, the spacing shall be one mile, and for wells approved for less than 25 acre feet per year, the spacing shall be 2,300 feet.

(2) The minimum spacing between a well tapping a consolidated aquifer and a well tapping a unconsolidated aquifer shall be 300 feet.

(3) The minimum spacing between a consolidated aquifer well approved for more than 100 acre feet per year and the nearest known point of hydraulic contact with an unconsolidated aquifer shall be five miles. For wells approved for 25 through 100 acre feet per year, the spacing shall be two miles and for wells approved for less than 25 acre feet per year, there shall be no spacing requirement.

In addition to the spacing requirements, all consolidated aquifer wells that also penetrate an unconsolidated aquifer shall be sealed off between the consolidated and the unconsolidated aquifer in such a manner as to prevent migration of water between the aquifers.

(c) 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 1,320 feet from the originally authorized point of diversion and shall:

(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 as adopted by the board. However, any application for approval to change the point of diversion under an approved application for which the original well has not been drilled shall not 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. Exceptions to this regulation may be granted on an individual basis by recommendation of the board in conjunction with the chief engineer. The board may require the applicant to submit information as it deems necessary to make the determination. (Authorized by K.S.A. 82a-1028(o); implementing K.S.A. 82a1028(n); effective May 1, 1981; amended may 1, 1985; amended August 28, 1989.)

5-23-4. Aquifer depletion. (a) The approval of all applications for a permit to appropriate water for beneficial use from the unconsolidated aquifer, commonly described as the Ogallala aquifer, except those for domestic use and those requesting less than five acre-feet per calendar year, 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.

(1) 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 more than 40 percent in 25 years of the saturated thickness underlying the area included within a two mile radius (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 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.

(4) The allowable annual appropriation shall be calculated using the following formula:

$$Q = \frac{0.40 (AMS)}{25} + \frac{AR}{12}$$

Q = allowable annual appropriation, acre-feet per year

A = area of consideration, acres

M = average saturated thickness, feet

S = storage coefficient (specific yield)

R = average annual recharge and return flow from irrigation, inches per year

(5) The average saturated thickness of the 8,042 acre area shall be determined from maps developed by the United States Geological Survey, the Kansas Geological Survey, or other reliable information.

(6) (A) The average saturated thickness of the two mile radius circle for a well proposed to be located in the West 1/2 of townships 33, 34 and 35 South, range 28 West; the East 1/2 of township 33 South, range 29 West; all of townships 34 and 35 South, range 31 and 32 West and the East 1/2 of townships 34 and 35 South, range 33 West in Seward County, Kansas, shall be limited to that portion of the saturated thickness containing less than 250 milligrams per liter of chlorides.

(B) Each application within this area shall include a driller's log, an electric log, and an analysis of a water sample taken from the bottom 20 feet of saturated thickness of the Ogallala aquifer. If such sample contains concentrations of chlorides of more than 250 milligrams per liter, additional samples of water shall be taken from selected depths which shall be sufficient to determine the location of water containing more than 250 milligrams per liter chlorides. Wells drilled in this area shall be constructed so they do not penetrate into that portion of the aquifer containing concentrations of chlorides of more than 250 milligrams per liter.

(7) The storage coefficient used shall be 15 percent. A value of one inch per year shall be used for recharge and return flow from irrigation.

(8) If part of the radial area is outside the district boundary, it shall be excluded from the depletion analysis. Only that portion lying within the boundary of the district shall be a part of the evaluation.

(9) 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.

(b) 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 board may require the applicant to submit information necessary in order to make the determination. (Authorized by K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective May 1, 1981; amended May 1, 1986; amended August 28, 1989.)

5-23-5. Applications and water use limitations. Applications for permit to appropriate water for beneficial use shall not be: (a) Approved for a quantity of water in excess of an average of two (2) acre-feet per acre of land shown on an application for irrigation purposes.

(b) Approved for a quantity of water or rate of diversion for any purposes in excess of the reasonable needs of the applicant as determined by the board in conjunction with the chief engineer.

(c) Exceptions to this regulation may be granted on an individual basis by recommendation of the board in conjunction with the approval of the chief engineer. The board may require the applicant to submit information as it deems necessary in order to make the determination. The board may also require that an alternative plan of development be implemented and written into the permit in order to protect existing water rights and groundwater resources in the vicinity of the proposed application. (Authorized by K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective May 1, 1981.)

5-23-6. Measuring devices. Whenever the board requires that a meter, gauge, or other measuring device be installed on the diversion works for a well, it shall be the responsibility of the owner or user to: (a) Insure that the meter, gauge, or measuring device is installed according to specifications adopted by the chief engineer; and

(b) Maintain the meter, gauge, or measuring device to insure proper working condition whenever the diversion works are in use.

A representative of the district shall have the right to inspect the meter to determine whether it is properly installed, and to read the meter, gauge, or other measuring device whenever deemed necessary. (Authorized by K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(l); effective May 1, 1981; amended May 1, 1985.)

5-23-7. Revoked.

5-23-8. Revoked.

5-23-9. Revoked.

5-23-11. Procedures for non-compliance with rules and regulations. The district, its board or manager, any eligible voter within the district, or any person residing within the district that is at least eighteen (18) years of age, may file a written complaint with the district alleging a violation of these rules and regulations, the management program, the groundwater management act (K.S.A. 82a-1020 et seq.), or the water appropriation act (K.S.A. 82a-701 et seq.). The written complaint shall be filed at the district office.

Within thirty (30) days following the filing of the complaint, a representative of the district designated by the board shall investigate the complaint. If the representative of the district finds that a violation has existed or presently exists, the representative shall issue a written directive to the violator stating the nature of the violation and directing the violator to come into compliance with these rules and regulations.

If the violator fails to comply with the directive the district may:

- (1) Seek to enjoin the violator's use of water by suitable action in district court until such time as the violator complies; or
- (2) Seek the assistance of the chief engineer and the attorney general of the state of Kansas to enjoin the violator's use of water until such time as the violator complies. (Authorized by K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective May 1, 1981.)