

RECEIVED

JAN 21 2016

KRIS W. KOBACH
SECRETARY OF STATE

**Department of Agriculture, Division of Water Resources
Notice of Hearing on Proposed Administrative Regulations
Groundwater Management Districts Nos. 1, 3 and 4**

Proposed

A public hearing will be conducted at 10:00 a.m., Monday, April 4, 2016, in the 1st floor meeting room 124 of the Kansas Department of Agriculture, 1320 Research Park Dr., Manhattan, Kansas, to consider the adoption of proposed regulations.

Individuals wishing to participate by teleconference may go to the Garden City Field Office, 2508 Johns Street, Garden City, or the Groundwater Management District No. 4 office, 1175 S. Range Ave., Colby, on the date and time of the public hearing.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Chief Engineer, Division of Water Resources, 1320 Research Park Dr., Manhattan, Kansas, 66502, or by e-mail at ronda.hutton@kda.ks.gov, or by submitting comments through the agency's website. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and their economic impact follows:

K.A.R. 5-21-6 amendments will require a totalizing flowmeter on all non-domestic, non-temporary points of diversion located within the boundaries of Western Kansas Groundwater Management District No. 1 (GMD 1) and removes the assumption a water right holder can use an hour meter and estimated pump rate to calculate water use.

K.A.R. 5-23-4 relates to allowable withdrawals within the Southwest Kansas GMD No. 3 (GMD 3). The proposed changes to K.A.R. 5-23-4, initiated by GMD 3, would close the GMD to new appropriations that have as all or part of its source, the Ogallala Aquifer.

K.A.R. 5-23-4b is revoked, as it is no longer needed with the amendments to K.A.R. 5-23-4.

K.A.R. 5-24-2 relates to allowable withdrawals within the Northwest Kansas GMD No. 4 (GMD 4). The proposed changes to K.A.R. 5-24-2, initiated by GMD 4, would close the GMD to new appropriations that have as all or part of its source, the Ogallala Aquifer.

Summary of Economic Impact Statement, K.A.R. 5-21-6:

The proposed amendments will allow a more accurate method of determining water use for the best management of the water resource within the boundaries of GMD 1. This regulation amendment was requested by GMD 1 and will apply within that district. This regulation is not mandated by federal law.

The proposed amendments will result a minimum fiscal impact to the department by increasing incoming meter completion forms. This will require acknowledgment and data entry into our water rights database. This will be in addition to forms we receive from users statewide.

The proposed amendments will result in a minor fiscal impact to GMD 1 regarding the increase in field work to inspect the new meter installations. However, inspection of meter installation is work the district currently conducts; therefore, this will be only be a short term increase of daily work as all additional wells are metered.

There will be a fiscal impact to individual water right holders of approximately \$1500 per well (cost of meter and installation). An estimated additional 500 wells will have the requirement for a flowmeter. The total fiscal impact to the water right holders in the GMD 1 will be \$750,000 (\$1500 x 500 wells). No other methods were considered by the state.

Metering results in timely and more accurate monitoring of water use – information that could result in more efficient water use and water right compliance.

Summary of Economic Impact Statement, K.A.R. 5-23-4 and K.A.R. 5-23-4b:

The regulation change was requested by GMD 3 as the District now wishes to close the Ogallala to new appropriations, replacing its current regulation on allowable new development which has allowed very limited new development over recent years as areas with significant groundwater resources have already been fully or over-developed. The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water

RECEIVED

JAN 21 2016

KRIS W. KOBACH
SECRETARY OF STATE

Proposed

**Department of Agriculture, Division of Water Resources
Notice of Hearing on Proposed Administrative Regulations
Groundwater Management Districts Nos. 1, 3 and 4**

A public hearing will be conducted at 10:00 a.m., Monday, April 4, 2016, in the 1st floor meeting room 124 of the Kansas Department of Agriculture, 1320 Research Park Dr., Manhattan, Kansas, to consider the adoption of proposed regulations.

Individuals wishing to participate by teleconference may go to the Garden City Field Office, 2508 Johns Street, Garden City, or the Groundwater Management District No. 4 office, 1175 S. Range Ave., Colby, on the date and time of the public hearing.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Chief Engineer, Division of Water Resources, 1320 Research Park Dr., Manhattan, Kansas, 66502, or by e-mail at ronda.hutton@kda.ks.gov, or by submitting comments through the agency's website. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and their economic impact follows:

K.A.R. 5-21-6 amendments will require a totalizing flowmeter on all non-domestic, non-temporary points of diversion located within the boundaries of Western Kansas Groundwater Management District No. 1 (GMD 1) and removes the assumption a water right holder can use an hour meter and estimated pump rate to calculate water use.

K.A.R. 5-23-4 relates to allowable withdrawals within the Southwest Kansas GMD No. 3 (GMD 3). The proposed changes to K.A.R. 5-23-4, initiated by GMD 3, would close the GMD to new appropriations that have as all or part of its source, the Ogallala Aquifer.

K.A.R. 5-23-4b is revoked, as it is no longer needed with the amendments to K.A.R. 5-23-4.

K.A.R. 5-24-2 relates to allowable withdrawals within the Northwest Kansas GMD No. 4 (GMD 4). The proposed changes to K.A.R. 5-24-2, initiated by GMD 4, would close the GMD to new appropriations that have as all or part of its source, the Ogallala Aquifer.

Summary of Economic Impact Statement, K.A.R. 5-21-6:

The proposed amendments will allow a more accurate method of determining water use for the best management of the water resource within the boundaries of GMD 1. This regulation amendment was requested by GMD 1 and will apply within that district. This regulation is not mandated by federal law.

The proposed amendments will result a minimum fiscal impact to the department by increasing incoming meter completion forms. This will require acknowledgment and data entry into our water rights database. This will be in addition to forms we receive from users statewide.

The proposed amendments will result in a minor fiscal impact to GMD 1 regarding the increase in field work to inspect the new meter installations. However, inspection of meter installation is work the district currently conducts; therefore, this will be only be a short term increase of daily work as all additional wells are metered.

There will be a fiscal impact to individual water right holders of approximately \$1500 per well (cost of meter and installation). An estimated additional 500 wells will have the requirement for a flowmeter. The total fiscal impact to the water right holders in the GMD 1 will be \$750,000 (\$1500 x 500 wells). No other methods were considered by the state.

Metering results in timely and more accurate monitoring of water use – information that could result in more efficient water use and water right compliance.

Summary of Economic Impact Statement, K.A.R. 5-23-4 and K.A.R. 5-23-4b:

The regulation change was requested by GMD 3 as the District now wishes to close the Ogallala to new appropriations, replacing its current regulation on allowable new development which has allowed very limited new development over recent years as areas with significant groundwater resources have already been fully or over-developed. The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water

rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment. The regulation is not mandated by Federal Law.

There no financial impacts expected to the Department from the proposed change. There have been few new applications filed sourced in the Ogallala Aquifer within GMD 3 over recent years; therefore, the anticipated reduction in fees is expected to be minimal.

Closure of the District to new appropriations, even though there currently are few new applications filed in this region, may result in a small and temporary negative economic impact. Long-term, the closure will provide additional surety to the existing water rights and may result in a positive economic impact.

No alternative methods were considered because of minimal impact to the agency and other governmental agencies.

The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment.

Summary of Economic Impact Statement, K.A.R. 5-24-2:

The regulation change was requested by GMD 4 as the District now wishes to close the Ogallala to new appropriations, replacing its current regulation on allowable new development which has allowed very limited new development over recent years as areas with significant groundwater resources have already been fully or over-developed. The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment. The regulation is not mandated by Federal Law.

There are no financial impacts expected to the Department from the proposed change. There have been few new applications filed sourced in the Ogallala Aquifer within GMD 4 over recent years; therefore, the anticipated reduction in fees is expected to be minimal.

Closure of the District to new appropriations, even though there currently are few new applications filed in this region, may result in a small and temporary negative economic impact. Long-term, the closure will provide additional surety to the existing water rights and may result in a positive economic impact.

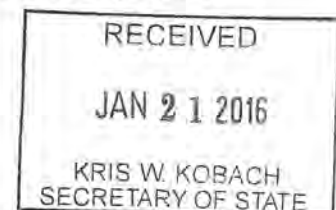
No alternative methods were considered because of minimal impact to the agency and other governmental agencies.

The change in regulation, formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holders are not pumping merely to prevent abandonment.

Any individual with a disability may request accommodations in order to participate in the public hearing and may request the proposed regulations and impact statements in an accessible format. Requests for accommodations should be made at least five working days in advance of the hearing by contacting Ronda Hutton at (785) 564-6715 or fax (785) 564-6777. Handicapped parking is located on the west side of the building located at 1320 Research Park Drive, Manhattan, and the west entrance to the building is accessible to individuals with disabilities.

Copies of the regulations and their economic impact statements may be obtained by contacting the Department of Agriculture, Ronda M. Hutton, 1320 Research Park Drive, Manhattan, KS 66502 or (785) 564-6715 or by accessing the department's Web site at agriculture.ks.gov. Comments may also be made through our website under the proposed regulation.

David W. Barfield
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture



K.A.R. 5-21-6. ~~Water-measuring devices~~ Water flowmeters. (a) Except as specified in subsections subsection (b) and ~~(c)~~, each well authorized on or after the ~~effective date of this regulation~~ January 1, 2014 within the boundaries of the district shall be equipped with a totalizing water flowmeter that is installed and maintained in accordance with the specifications in K.A.R. 5-1-4 through 5-1-12. Each water right owner shall maintain the water flowmeter so that the flowmeter functions properly whenever the diversion of water can reasonably be expected to occur. If the 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.

(b) ~~If the owner of the water right demonstrates to the board that the installation of a water flowmeter meeting the requirements of subsection (a) is not feasible, the installation of an hour meter in lieu of a water flowmeter may be approved by the board. Installation of a water flowmeter shall be considered to be not feasible if all of the following conditions are met:~~

~~(1) The diversion works and the delivery system are both in existence before the order of the board to install a water-measuring device.~~

~~(2) The owner enters into a written agreement with the district providing that the owner will perform the following:~~

~~(A) Notify the district whenever the diversion works or the delivery system is modified; and~~

~~(B) install a water flowmeter when the diversion works or delivery system is modified, unless a waiver is granted by the board.~~


~~(3) Either of the following conditions is met:~~

~~(A) The normal operating rate of diversion is less than 200 gallons per minute.~~

RECEIVED
JAN 21 2016
KRIS W. KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL

DEC 28 2015

APPROVED BY 

APPROVED

DEC 10 2015

DEPT. OF ADMINISTRATION

RECEIVED

JAN 21 2016

KRIS W. KOBACH
SECRETARY OF STATE

Department of Agriculture, Division of Water Resources
Notice of Hearing on Proposed Administrative Regulations
Groundwater Management Districts Nos. 1, 3 and 4

Proposed

A public hearing will be conducted at 10:00 a.m., Monday, April 4, 2016, in the 1st floor meeting room 124 of the Kansas Department of Agriculture, 1320 Research Park Dr., Manhattan, Kansas, to consider the adoption of proposed regulations.

Individuals wishing to participate by teleconference may go to the Garden City Field Office, 2508 Johns Street, Garden City, or the Groundwater Management District No. 4 office, 1175 S. Range Ave., Colby, on the date and time of the public hearing.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Chief Engineer, Division of Water Resources, 1320 Research Park Dr., Manhattan, Kansas, 66502, or by e-mail at ronda.hutton@kda.ks.gov, or by submitting comments through the agency's website. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and their economic impact follows:

K.A.R. 5-21-6 amendments will require a totalizing flowmeter on all non-domestic, non-temporary points of diversion located within the boundaries of Western Kansas Groundwater Management District No. 1 (GMD 1) and removes the assumption a water right holder can use an hour meter and estimated pump rate to calculate water use.

K.A.R. 5-23-4 relates to allowable withdrawals within the Southwest Kansas GMD No. 3 (GMD 3). The proposed changes to K.A.R. 5-23-4, initiated by GMD 3, would close the GMD to new appropriations that have as all or part of its source, the Ogallala Aquifer.

K.A.R. 5-23-4b is revoked, as it is no longer needed with the amendments to K.A.R. 5-23-4.

K.A.R. 5-24-2 relates to allowable withdrawals within the Northwest Kansas GMD No. 4 (GMD 4). The proposed changes to K.A.R. 5-24-2, initiated by GMD 4, would close the GMD to new appropriations that have as all or part of its source, the Ogallala Aquifer.

Summary of Economic Impact Statement, K.A.R. 5-21-6:

The proposed amendments will allow a more accurate method of determining water use for the best management of the water resource within the boundaries of GMD 1. This regulation amendment was requested by GMD 1 and will apply within that district. This regulation is not mandated by federal law.

The proposed amendments will result a minimum fiscal impact to the department by increasing incoming meter completion forms. This will require acknowledgment and data entry into our water rights database. This will be in addition to forms we receive from users statewide.

The proposed amendments will result in a minor fiscal impact to GMD 1 regarding the increase in field work to inspect the new meter installations. However, inspection of meter installation is work the district currently conducts; therefore, this will be only be a short term increase of daily work as all additional wells are metered.

There will be a fiscal impact to individual water right holders of approximately \$1500 per well (cost of meter and installation). An estimated additional 500 wells will have the requirement for a flowmeter. The total fiscal impact to the water right holders in the GMD 1 will be \$750,000 (\$1500 x 500 wells). No other methods were considered by the state.

Metering results in timely and more accurate monitoring of water use – information that could result in more efficient water use and water right compliance.

Summary of Economic Impact Statement, K.A.R. 5-23-4 and K.A.R. 5-23-4b:

The regulation change was requested by GMD 3 as the District now wishes to close the Ogallala to new appropriations, replacing its current regulation on allowable new development which has allowed very limited new development over recent years as areas with significant groundwater resources have already been fully or over-developed. The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water

rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment. The regulation is not mandated by Federal Law.

There no financial impacts expected to the Department from the proposed change. There have been few new applications filed sourced in the Ogallala Aquifer within GMD 3 over recent years; therefore, the anticipated reduction in fees is expected to be minimal.

Closure of the District to new appropriations, even though there currently are few new applications filed in this region, may result in a small and temporary negative economic impact. Long-term, the closure will provide additional surety to the existing water rights and may result in a positive economic impact.

No alternative methods were considered because of minimal impact to the agency and other governmental agencies.

The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment.

Summary of Economic Impact Statement, K.A.R. 5-24-2:

The regulation change was requested by GMD 4 as the District now wishes to close the Ogallala to new appropriations, replacing its current regulation on allowable new development which has allowed very limited new development over recent years as areas with significant groundwater resources have already been fully or over-developed. The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment. The regulation is not mandated by Federal Law.

There are no financial impacts expected to the Department from the proposed change. There have been few new applications filed sourced in the Ogallala Aquifer within GMD 4 over recent years; therefore, the anticipated reduction in fees is expected to be minimal.

Closure of the District to new appropriations, even though there currently are few new applications filed in this region, may result in a small and temporary negative economic impact. Long-term, the closure will provide additional surety to the existing water rights and may result in a positive economic impact.

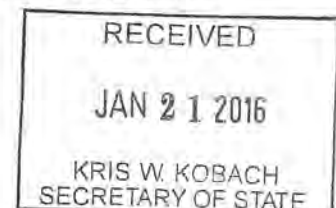
No alternative methods were considered because of minimal impact to the agency and other governmental agencies.

The change in regulation, formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holders are not pumping merely to prevent abandonment.

Any individual with a disability may request accommodations in order to participate in the public hearing and may request the proposed regulations and impact statements in an accessible format. Requests for accommodations should be made at least five working days in advance of the hearing by contacting Ronda Hutton at (785) 564-6715 or fax (785) 564-6777. Handicapped parking is located on the west side of the building located at 1320 Research Park Drive, Manhattan, and the west entrance to the building is accessible to individuals with disabilities.

Copies of the regulations and their economic impact statements may be obtained by contacting the Department of Agriculture, Ronda M. Hutton, 1320 Research Park Drive, Manhattan, KS 66502 or (785) 564-6715 or by accessing the department's Web site at agriculture.ks.gov. Comments may also be made through our website under the proposed regulation.

David W. Barfield
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture



K.A.R. 5-21-6. ~~Water-measuring devices~~ Water flowmeters. (a) Except as specified in subsections subsection (b) and ~~(e)~~, each well authorized on or after the effective date of this regulation January 1, 2014 within the boundaries of the district shall be equipped with a totalizing water flowmeter that is installed and maintained in accordance with the specifications in K.A.R. 5-1-4 through 5-1-12. Each water right owner shall maintain the water flowmeter so that the flowmeter functions properly whenever the diversion of water can reasonably be expected to occur. If the 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.

(b) ~~If the owner of the water right demonstrates to the board that the installation of a water flowmeter meeting the requirements of subsection (a) is not feasible, the installation of an hour meter in lieu of a water flowmeter may be approved by the board. Installation of a water flowmeter shall be considered to be not feasible if all of the following conditions are met:~~

~~(1) The diversion works and the delivery system are both in existence before the order of the board to install a water-measuring device.~~

~~(2) The owner enters into a written agreement with the district providing that the owner will perform the following:~~


~~(A) Notify the district whenever the diversion works or the delivery system is modified; and~~

~~(B) install a water flowmeter when the diversion works or delivery system is modified, unless a waiver is granted by the board.~~

~~(3) Either of the following conditions is met:~~

~~(A) The normal operating rate of diversion is less than 200 gallons per minute.~~

RECEIVED
JAN 21 2016
KRIS W. KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL
DEC 28 2015
APPROVED BY 

APPROVED
DEC 10 2015
DEPT. OF ADMINISTRATION

~~(B) The diameter of the existing pipe is too large for the normal operating flow rate so that full pipe flow cannot be maintained through a water flowmeter.~~

~~(e) Each well location authorized before the effective date of this regulation and located within the boundaries of the district shall be equipped with a water measuring device that was acceptable at the time the water measuring device was required. Waivers or exemptions to the installation of a water flowmeter granted by the district before the effective date of this regulation shall be considered to be effective until one of the following occurs:~~

~~(1) The well is redrilled.~~

~~(2) The delivery system is modified.~~

~~(3) The water measuring device is no longer functioning properly and is not promptly repaired.~~

~~(4) The district or the chief engineer orders that the well be equipped with a water flowmeter.~~

~~(d) An hour meter installation shall be deemed acceptable if all of the following requirements are met:~~

~~(1) The hour meter shall be enclosed in a weatherproof box and installed on a stand or post separate from, but adjacent to, the pumping plant base.~~

~~(2) The wiring from the pumping plant to the hour meter shall be at least 16 gauge and shall be enclosed in a conduit.~~

~~(3) All electrical connections shall be firmly attached.~~

~~(e) The following types of water use shall be exempt from the requirements of this regulation:~~

RECEIVED
JAN 21 2015
KRIS W. KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL

DEC 28 2015

APPROVED BY *gcf*

APPROVED

DEC 10 2015

DEPT. OF ADMINISTRATION

(1) Domestic use; and

(2) ~~temporary use pursuant to a temporary permit to appropriate water.~~ (Authorized by K.S.A. 82a-706a and K.S.A. 2015 Supp. 82a-1028, ~~as amended by L. 2002, Ch. 137, § 5;~~ implementing K.S.A. 82a-706c and K.S.A. 2015 Supp. 82a-1028, ~~as amended by L. 2002, Ch. 137, § 5~~ and K.S.A. 2001 Supp. 82a-1903, ~~as amended by L. 2002, Ch. 137, § 7;~~ effective Jan. 24, 2003; amended P-_____.)

RECEIVED
JAN 21 2016
KRIS W. KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL

DEC 28 2015

APPROVED BY *sf*

APPROVED

DEC 10 2015

DEPT. OF ADMINISTRATION

~~5-23-4. Safe yield: High plains aquifer.~~ (a) Except as ~~set forth~~ specified 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 processed in accordance with ~~K.A.R. 5-3-9, K.A.R. 5-3-10, and K.A.R. 5-3-11.~~ For the purpose of applying ~~K.A.R. 5-3-11 (d)(3)~~ within the boundaries of the district, the percentages of the calculated recharge that shall be considered to be available for appropriation shall be determined using the following table: district shall be closed to new appropriations of water in the high plains aquifer.

~~Percent of Calculated~~

~~Recharge Available~~

~~for Appropriation~~

~~River Basin~~

~~(A) 75 %~~

~~Arkansas~~

~~(B) 75 %~~

~~Cimarron River~~

~~(C) 75 %~~

~~Crooked Creek~~

~~(D) 75 %~~

~~North Fork Cimarron River~~

(b) This regulation 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~~ no more than five years;

(4) an application to appropriate 15 acre-feet of water or less if all of the following conditions are met:

(A) The ~~safe yield has been exceeded~~ area is closed to new appropriations, but the sum of the annual quantity requested by the proposed appropriation and the total quantities authorized by prior


APPROVED

ATTORNEY GENERAL

NOV 18 2015

DEC 04 2015

DEPT. OF ADMINISTRATION

APPROVED BY 

RECEIVED
JAN 21 2016
KRIS W. KOBACH
SECRETARY OF STATE

permits because of this exemption does not exceed 15 acre-feet in a circle with a radius of $\frac{1}{2}$ mile two miles 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 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.

(D) All other criteria for processing a new application have been met.

(c) Each application filed to request a well within the area described in subsection (e) 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 milligrams per liter (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.

(d) Each well constructed in the area described in subsection (e) shall be constructed in a manner that prevents the movement of water containing 250 mg/l of chlorides beyond its naturally occurring condition.

(e) The level of chlorides may exceed 250 mg/l in the following areas:

(1) The west $\frac{1}{2}$ of townships 33, 34, and 35 south, range 28 west in Meade County, Kansas;

(2) the east $\frac{1}{2}$ of township 33 south, range 29 west in Meade County, Kansas;

(3) all of townships 34 and 35 south, ranges 29 and 30 west in Meade County, Kansas;

and

APPROVED

NOV 17 2015

DEPT. OF ADMINISTRATION

RECEIVED
JAN 21 2016
KRIS W. KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL

DEC 04 2015

APPROVED BY *8f*

(4) 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. (Authorized by K.S.A. 82a-706a and K.S.A. 2015 Supp. 82a-1028; implementing K.S.A. 82a-706a, K.S.A. ~~2002~~ 2015 Supp. 82a-711, and K.S.A. ~~2002~~ 2015 Supp. 82a-1028; effective May 1, 1981; amended May 1, 1986; amended Aug. 28, 1989; amended Sept. 22, 2000; amended Nov. 21, 2003; amended P-_____.)

RECEIVED
JAN 21 2016
KRIS W. KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL
DEC 04 2015
APPROVED BY SF

APPROVED
NOV 18 2015
DEPT. OF ADMINISTRATION

Proposed

K.A.R. 5-23-4b. (Authorized by K.S.A. 82a-706a and K.S.A. 82a-1028; implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; effective Sept. 22, 2000; amended Nov. 21, 2003; revoked P-_____.)

RECEIVED
JAN 21 2016
KRIS W. KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL

NOV 24 2015

APPROVED BY 

APPROVED

NOV 17 2015

DEPT. OF ADMINISTRATION

5-24-2. Allowable withdrawals. (a) Except as set forth specified in subsection (b) below, each application for an approval of application and each application for a change in the point of diversion shall be subject to the following requirements: the district shall be closed to any new appropriation of water that partially or wholly requests a source of supply that includes the Ogallala formation.

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

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

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

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

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

(B) ~~A is the area of consideration.~~

RECEIVED
JAN 21 2016
KRIS W. KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL

DEC 28 2015

APPROVED BY *fr*

APPROVED

DEC 21 2015

DEPT. OF ADMINISTRATION

Proposed

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

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

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

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

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

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

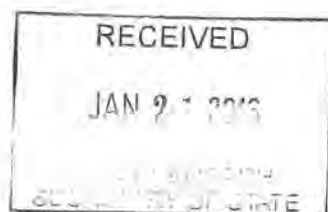
(B) meets the well spacing requirements of K.A.R. 5-24-3; and

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

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

(A) Niobrara;

(B) Carlile;



ATTORNEY GENERAL

DEC 28 2015

APPROVED BY *af*

APPROVED

DEC 21 2015

DEPT. OF ADMINISTRATION

~~proposed~~

~~(C) Greenhorn;~~

~~(D) Dakota;~~

~~(E) Kiowa; or~~

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

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

~~(ii) the proposed point of diversion is located in an area where there is a natural~~

~~hydraulic connection between all of the formations from which the applicant proposes to~~

~~divert water the Cretaceous system if the proposed point of diversion meets the well~~

~~spacing criteria of K.A.R. 5-24-3;~~

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

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

~~(5) an application for a temporary permit;~~

~~(6) an application for change in point of diversion if either of the following~~

~~conditions is met:~~

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

~~(B) the authorized diversion works have been completed and a notice of~~

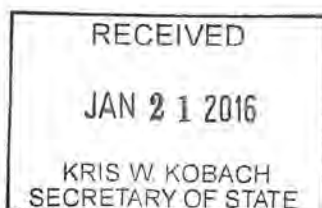
~~completion was timely filed with the chief engineer under the current water right or~~

~~approval of application;~~

~~(7) an application for an approval of application filed on an existing well currently~~

~~authorized by a vested right, appropriation right, or approval of application that requests a~~

~~quantity of water equal to or less than the currently available quantity of water that will~~



ATTORNEY GENERAL

DEC 28 2015

APPROVED BY *[Signature]*

APPROVED

DEC 11 2015

DEPT. OF ADMINISTRATION

Proposed

be conjunctively reduced from a well authorized by either a vested right or certified appropriation right meeting either of the criteria specified in paragraph (c)(1);

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

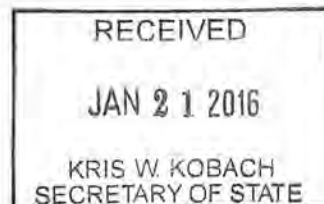
(9) (8) an application for an additional rate of diversion only that meets the requirements of K.A.R. 5-4-5.

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

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

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

- (i) The certified rate of diversion of the currently authorized well;
- (ii) the certified annual quantity of water for the currently authorized well;
- (iii) the pumping time equal to the time it takes to pump the certified annual quantity at the certified rate of diversion;
- (iv) the drawdown computed at the time equal to the pumping time; and



ATTORNEY GENERAL

DEC 28 2015

APPROVED BY 

APPROVED

DEC 11 2015

DEPT. OF ADMINISTRATION

Proposed

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

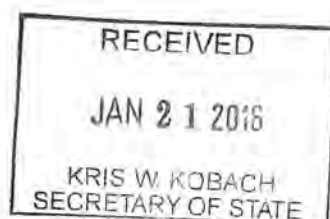
(2)(A) For water rights authorized for irrigation use, the currently available quantity of water shall be calculated as follows:

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

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

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

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



ATTORNEY GENERAL

DEC 28 2015

APPROVED BY 

APPROVED

DEC 22 2015

DEPT. OF ADMINISTRATION

Proposed

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

(5) The historic consumptive use of a well meeting the requirements of paragraph (b)(7) (b)(6) that is accounted for in the Republican river compact, K.S.A. 82a-518 and amendments thereto, accounting as a stream depletion reaching the Republican river downstream of Trenton dam shall not be transferred to a well that would cause a depletion reaching the Republican river upstream of Trenton dam.

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

- (i) (A) The approval of application;
- (ii) (B) the water right being reduced; and
- (iii) (C) the water right currently authorizing the well for which the new water right is sought. (Authorized by and implementing K.S.A. 82a-706a and K.S.A. 2002 2015 Supp. 82a-1028; ~~implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028;~~ effective May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended Aug. 19, 1991; amended Jan. 30, 2004; amended P-_____.)

RECEIVED
JAN 21 2016
KRIS W KOBACH
SECRETARY OF STATE

ATTORNEY GENERAL

DEC 28 2015

APPROVED BY *st*

APPROVED

DEC 21 2015

DEPT. OF ADMINISTRATION

**KANSAS DEPARTMENT OF AGRICULTURE
ECONOMIC IMPACT STATEMENT
Amended K.A.R. 5-21-6**

I. Summary of proposed regulation, including its purpose.

The proposed amendments to the regulation require a totalizing flowmeter on all non-domestic, non-temporary points of diversion located within the boundaries of Western Kansas Groundwater Management District No. 1 (GMD 1) and removes the assumption a water right holder can use an hour meter and estimated pump rate to calculate water use.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

The proposed amendments will allow a more accurate method of determining water use for the best management of the water resource within the boundaries of GMD 1. This regulation amendment was requested by GMD 1 and will apply within that district.

This regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Agriculture.

The proposed amendments will result a minimum fiscal impact to the department by increasing incoming meter completion forms. This will require acknowledgment and data entry into our water rights database. This will be in addition to forms we receive from users statewide.

IV. Anticipated financial impact upon other governmental agencies and upon private business or individuals.

The proposed amendments will result in a minor fiscal impact to GMD 1 regarding the increase in field work to inspect the new meter installations. However, inspection of meter installation is work the district currently conducts; therefore, this will be only be a short term increase of daily work as all additional wells are metered.

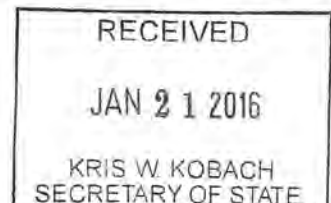
There will be a fiscal impact to individual water right holders of approximately \$1500 per well (cost of meter and installation). An estimated additional 500 wells will have the requirement for a flowmeter. The total fiscal impact to the water right holders in the GMD 1 will be \$750,000 (\$1500 x 500 wells).

V. Less costly or intrusive methods that were considered, but rejected, and the reason for rejection.

No other methods were considered by the state.

VI. Environmental Impact.

Metering results in timely and more accurate monitoring of water use – information that could result in more efficient water use and water right compliance.



**KANSAS DEPARTMENT OF AGRICULTURE
IMPACT STATEMENT
Amended Regulations
K.A.R. 5-23-4 High Plains Aquifer (Amended); K.A.R. 5-23-4b (Revoked)
For Southwest Kansas GMD No. 3**

I. Summary of Proposed Regulation, Including Its Purpose.

K.A.R. 5-23-4 relates to allowable withdrawals within the Southwest Kansas GMD No. 3 (GMD 3). The proposed changes to K.A.R. 5-23-4, initiated by GMD 3, would close the GMD to new appropriations that have as all or part of its source, the Ogallala Aquifer. K.A.R. 5-23-4b is revoked, as it is no longer needed with the amendments to K.A.R. 5-23-4.

II. Reason Or Reasons The Proposed Regulation Is Required, Including Whether Or Not The Regulation Is Mandated By Federal Law.

The regulation change was requested by GMD 3 as the District now wishes to close the Ogallala to new appropriations, replacing its current regulation on allowable new development which has allowed very limited new development over recent years as areas with significant groundwater resources have already been fully or over-developed. The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment.

The regulation is not mandated by Federal Law.

III. Anticipated Financial Impact Upon The Kansas Department Of Agriculture.

There no financial impacts expected to the Department from the proposed change. There have been few new applications filed sourced in the Ogallala Aquifer within GMD 3 over recent years; therefore, the anticipated reduction in fees is expected to be minimal.

IV. Anticipated Economic Impact Upon Other Governmental Agencies And Upon Private Business Or Individuals.

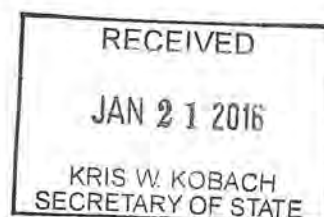
Closure of the District to new appropriations, even though there currently are few new applications filed in this region, may result in a small and temporary negative economic impact. Long-term, the closure will provide additional surety to the existing water rights and may result in a positive economic impact.

V. Less Costly or Intrusive Methods That Were Considered, But Rejected, And the Reason for Rejection.

No alternative methods were considered because of minimal impact to the agency and other governmental agencies.

VI. Environmental Impact

The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment.



**KANSAS DEPARTMENT OF AGRICULTURE
IMPACT STATEMENT
Amended Regulations
K.A.R. 5-24-2. Allowable Withdrawals
For Northwest Kansas GMD No. 4**

I. Summary of Proposed Regulation, Including Its Purpose.

K.A.R. 5-24-2 relates to allowable withdrawals within the Northwest Kansas GMD No. 4 (GMD 4). The proposed changes to K.A.R. 5-24-2, initiated by GMD 4, would close the GMD to new appropriations that have as all or part of its source, the Ogallala Aquifer.

II. Reason Or Reasons The Proposed Regulation Is Required, Including Whether Or Not The Regulation Is Mandated By Federal Law.

The regulation change was requested by GMD 4 as the District now wishes to close the Ogallala to new appropriations, replacing its current regulation on allowable new development which has allowed very limited new development over recent years as areas with significant groundwater resources have already been fully or over-developed. The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holder are not pumping merely to prevent abandonment.

The regulation is not mandated by Federal Law.

III. Anticipated Financial Impact Upon The Kansas Department Of Agriculture.

There are no financial impacts expected to the Department from the proposed change. There have been few new applications filed sourced in the Ogallala Aquifer within GMD 4 over recent years; therefore, the anticipated reduction in fees is expected to be minimal.

IV. Anticipated Economic Impact Upon Other Governmental Agencies And Upon Private Business Or Individuals.

Closure of the District to new appropriations, even though there currently are few new applications filed in this region, may result in a small and temporary negative economic impact. Long-term, the closure will provide additional surety to the existing water rights and may result in a positive economic impact.

V. Less Costly or Intrusive Methods That Were Considered, But Rejected, And The Reason For Rejection.

No alternative methods were considered because of minimal impact to the agency and other governmental agencies.

VI. Environmental Impact

The change in regulation, by formally closing the Ogallala to new appropriations, will protect existing water rights from abandonment, insuring that water right holders are not pumping merely to prevent abandonment.

