

Kansas Administrative Regulations

Kansas Department of Agriculture— Division of Water Resources

Article 14.—Enforcement and Appeals

5-14-10. Civil penalties for violations other than exceeding the authorized quantity of water. (a) In addition to any other authorized enforcement procedures, if the chief engineer finds that any of the violations specified in K.S.A. 82a-737, and amendments thereto, have occurred, a written order may be issued by the chief engineer pursuant to K.S.A. 82a-737(e), and amendments thereto.

(b) The following shall apply to each civil penalty issued by the chief engineer pursuant to this regulation:

(1) Each civil penalty assessed in any order issued under this regulation shall be no greater than the civil penalties specified in subsection (n) for each applicable violation;

(2) any day on which the violation continues to occur may constitute a separate offense;

(3) any order issued pursuant to this regulation may include any and all known violations of this regulation, K.A.R. 5-1-4, K.A.R. 5-1-6, K.A.R. 5-1-10, or K.A.R. 5-14-12, and may include all penalties pertaining to a given water right and violations applicable to multiple water rights, and separate penalties may be assessed for each violation cited in a single order; and

(4) the monetary penalties and suspension terms specified in subsection (n) may be reduced due to one or more of the following factors:

(A) The absence of any prior penalty assessed under the Kansas water appropriation act, or implementing regulations, during the five calendar years preceding the calendar year in which the most recent violation occurred and if that calendar year is not determinable, then preceding the calendar year in which the order is issued for the most recent violation;

(B) the absence of intentional noncompliance or gross negligence; or

(C) prompt cessation or correction of the violation upon discovery or notification by the chief engineer or an authorized representative or by personnel from a groundwater management district.

(c) Any of the following actions or inactions may constitute a lower-tier miscellaneous violation:

(1) Operating and maintaining a water flowmeter or other water-measuring device required by the chief engineer that is out of compliance as specified in K.A.R. 5-1-9 or that does not comply with K.A.R. 5-1-4 or K.A.R. 5-1-6, unless the violation is a meter manipulation;

(2) failure to properly implement a conservation plan required by the chief engineer;

(3) committing a waste of water; and

(4) violating an order of the chief engineer or a term, condition, or limitation of a water right, approval of application, term permit or temporary permit, or any regulation not otherwise specifically listed as a violation in this regulation.

(d) Any of the following actions or inactions may constitute a failure to provide information:

(1) Failure to file a required monthly report;

(2) failure to provide information or documentation as required by K.A.R. 5-1-10; and

(3) failure to provide complete and accurate water use or other data, information, or records requested by the chief engineer or authorized representative, except the annual water use reports required by K.S.A. 82a-732, and amendments thereto, within the following time frames:

(A) For information regarding water use during administration of a water right, within 24 hours of the chief engineer's or authorized representative's request; and

(B) for all other information, within 15 days of the request made by the chief engineer or authorized representative or within any other time frame prescribed by the chief engineer or authorized representative when the request is made.

(e) Any of the following actions may constitute an unauthorized diversion or threat to divert:

- (1) A threat to divert water without authorization from the chief engineer;
- (2) irrigating an unauthorized place of use;
- (3) diverting water at a rate in excess of the authorized rate of diversion;
- (4) diverting water from an unauthorized point of diversion of water; and
- (5) applying water to an unauthorized type of beneficial use.

(f) It may be a violation for any person to deny access to authorized agents of the chief engineer as required by K.S.A. 82a-706b, and amendments thereto.

(g) It may be a violation for any person to fail to timely install, or to remove and fail to replace, a required water flowmeter or other acceptable water-measuring device.

(h) Any of the following actions may constitute a violation of a substantial order of the chief engineer:

- (1) Violating a cease-and-desist order issued by the chief engineer;
- (2) violating an order of the chief engineer issued pursuant to K.S.A. 82a-706b, and amendments thereto;
- (3) violating any order of the chief engineer issued pursuant to K.S.A. 82a-1038, K.S.A. 82a-1041, or K.S.A. 82a-745, and amendments thereto, or any associated term permit, relating to an intensive groundwater use control area, local enhanced management area, or water conservation area; and
- (4) violating a minimum desirable streamflow order issued by the chief engineer pursuant to K.A.R. 5-15-1 through 5-15-3.

(i) Any of the following actions may constitute meter manipulation:

- (1) Causing a water flowmeter or other acceptable water-measuring device to show an incorrect or inaccurate reading by any method, including any of the following:
 - (A) Tampering with the meter in any way;

(B) physically altering the meter reading or the propeller;

(C) operating the water flowmeter in reverse orientation or running the water flowmeter in reverse by any means;

(D) altering a water flowmeter from its factory specifications in a manner that causes the meter to underreport actual water use; or

(E) removing a seal placed on a pump, diversion device, or water flowmeter without the written permission of the chief engineer or the chief engineer's authorized representative.

(2) If a penalty is assessed for meter manipulation pursuant to this regulation and more than one water right is serviced by a single meter, then a single penalty may be assessed for all water rights serviced by that meter.

(j) Any of the following actions may constitute falsification:

(1) Providing false water use data, including providing inaccurate information during a perfection period or after a water right has been certified, that underreports or overreports water use; and

(2) falsifying any other required data or information.

(k) Any of the following actions may constitute a violation of a special condition of a change application approval:

(1) Violating any of the terms and conditions of a multiyear allocation; and

(2) violating a term or condition limiting the net acres that may be irrigated in any one calendar year pursuant to an approval to allow annual rotation of the authorized place of use for irrigation.

(l) The suspension specified in subsection (n) may apply to all or any portion of the annual water use authorized by the water right, any term permit, and any water right upon which a multiyear allocation or rotation was based. Additionally, a subsequent restriction of the authorized place of use to the base acreage at a location specified in the change approval may be applied. After any suspension has expired, the water right may revert to all conditions in effect on the water right before approval of the change application that authorized the multiyear allocation or rotation.

(m) If falsification or meter manipulation occurs during the term of a multiyear flex account term permit or other term permit during which the base water right is suspended, the chief engineer may revoke the term permit, and the base water right may be suspended for what would have been the remainder of the term permit. In addition to the suspension, a penalty corresponding to the falsification or meter manipulation violation cited may be imposed. Any additional reduction or suspension may run consecutively with the suspension for what would have been the remainder of the term permit.

(n) The following table may specify the maximum civil penalty and the maximum suspension term that may be assessed by the chief engineer for each violation of this regulation:

Violation	Monetary penalty	Maximum number of days monetary penalty applied	Suspension of water use
Lower-tier miscellaneous	\$500 per day	20	One year
Failure to provide information	\$500 per day, for each day the violation exists	20	One year
Unauthorized diversion or threat to divert	\$500 per day	20	One year
Denial of access	\$1,000 per day	10	Three years
Lack of water flowmeter	\$1,000 per day	10	Three years

Violation	Monetary penalty	Maximum number of days monetary penalty applied	Suspension of water use
Meter manipulation	\$1,000 per day	10	Five years
Falsification	\$1,000 per instance of falsification	Not applicable	Five years
Noncompliance with a special condition of a change application approval	\$1,000 per day	10	Two years

(o) Any civil penalty and any temporary reduction or suspension of the quantity of water authorized to be diverted under a water right in Kansas may be enforced against the owner or owners of the water right and shall attach to and transfer with the water right to any subsequent heir, assignee, purchaser, or other subsequent holder of the water right.

(p) Any person aggrieved by an order of the chief engineer may request a review pursuant to K.S.A. 82a-1901, and amendments thereto, and after exhaustion of administrative remedies, may appeal to the district court in the manner provided by the Kansas judicial review act.

(Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706a, K.S.A. 82a-737, and K.S.A. 82a-1901; effective Oct. 24, 2003; amended Oct. 31, 2008; amended July 14, 2017; amended Aug. 14, 2026.)

***** Authenticated Kansas Administrative Regulation *****