

Kansas Administrative Regulations

Kansas Department of Agriculture—Division of Water Resources

Article 7.—Abandonment and Termination

5-7-4b. Water rights conservation program; tier 2.

(a) Each application for enrollment in the water rights conservation program (WRCP) received on or after July 1, 2011, shall be considered as a WRCP tier 2 application.

(b) Enrollment of a water right in tier 2 of the WRCP shall be by order of the chief engineer and compliance with the requirements of subsection (d).

(c) For a water right to be eligible to be enrolled in tier 2 of the WRCP, each of the following requirements shall be met:

(1) Except for domestic use, the point of diversion shall be located in either of the following locations:

(A) An area that is closed to new appropriations of water by regulation or order of the chief engineer or, only within the Ogallala aquifer, is effectively closed due to overappropriation determined by a safe-yield analysis; or

(B) some other area designated by the chief engineer as an area where it would be in the public interest to allow water rights to be placed in the WRCP. In areas within the boundaries of a groundwater management district, the recommendations of the board of the district shall be taken into consideration by the chief engineer.

(2) Each of the owners of the water right shall agree to totally suspend all water use authorized by the water right for the duration of the enrollment period.

(3) The owner or owners of the water right shall submit an application to the chief engineer, or the chief engineer's authorized representative, requesting that the water right be enrolled.

(4) Only an entire water right may be enrolled in the WRCP. If a water right is administratively divided by the chief engineer, each portion of the water right shall be considered to be an entire water right.

(5) The water right shall not be deemed abandoned pursuant to K.S.A. 82a-718, and amendments thereto.

(d) Requirements of any order enrolling a water right in the WRCP shall include the following:

(1) Water rights shall be placed into the WRCP for a definite period of calendar years of no fewer than five and no more than 10 as requested by the application.

(2) The water right owner or operator shall not be required to maintain the diversion works or delivery system during the period of enrollment. If the pump is removed from a well, the well shall be properly capped or sealed during the period of enrollment. These requirements shall be in addition to those requirements made by the Kansas department of health and environment pursuant to the groundwater exploration and protection act, K.S.A. 82a-1201 et seq. and amendments thereto.

(3) A certificate determining the extent to which a water right has been perfected shall be issued by the chief engineer before enrolling the water right in the WRCP.

(4) Each year after authorized enrollment in the WRCP, the water use correspondent shall indicate on the water use report that no water was used because the water right was enrolled in the WRCP.

(e) Each diversion of water for beneficial use, other than domestic use, under authority of a water right while enrolled in the WRCP shall result in revocation of the enrollment order and the loss of due and sufficient cause for nonuse of water during the portion of the enrollment period occurring before the diversion.

(f) Each diversion of water for beneficial use, other than domestic use, during the enrollment period shall be considered a violation of the order enrolling the water right. Any such diversion of water may result in a civil penalty pursuant to K.S.A. 2013 Supp. 82a-737, and amendments thereto.

(Authorized by and implementing K.S.A. 2013 Supp. 82a-741; effective April 18, 2014.)

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