

Kansas Administrative Regulations

Kansas Department of Agriculture—Division of Water Resources

Article 4.—Distribution of Water Between Users

5-4-2. Protection of releases from storage under low-flow conditions.

(a) As used only in this regulation, the following terms shall have the meanings specified in this subsection:

(1) "Low-flow conditions" shall mean that the natural flow below a reservoir is not sufficient to satisfy the demand for water use below the reservoir by known domestic water rights and by permits and water rights of record in the office of the chief engineer.

(2) "Natural flow" shall mean water that is flowing in a river or stream, except water that is entitled to be protected from diversion.

(b) If the owner of a surface water right below a reservoir could physically divert water that has been released from storage under the authority of the state of Kansas or that has been released from storage pursuant to an agreement between the state and federal government and that owner has been notified by the chief engineer that low-flow conditions exist, that owner shall not divert any water under that surface water right without the written permission of the chief engineer.

(c) If the owner of a surface water right described in subsection (b) desires to divert water after being notified that low-flow conditions exist, that owner shall submit a written request to the chief engineer containing all of the following information:

(1) The water right number;

(2) the following information for the owner:

(A) Name and telephone number; and

(B) if available, electronic mail address, fax number, and cellular telephone number;

(3) the name and telephone number of any representative authorized by the owner to request and receive permission to divert water under low-flow conditions from the chief engineer. Each request shall also contain, if available, the electronic mail address, cellular telephone number, and fax number of the authorized representative;

(4) the total quantity of water that has been diverted under that water right during that current calendar year; and

(5) the length of time and the maximum rate of diversion which the owner is requesting to divert water.

(d) As soon as practical after receiving the request, the owner may be notified in writing by the chief engineer if any natural flow is available to be diverted under the authority of that water right.

(e) If an owner has been notified that low-flow conditions exist, diversion of any water without the written permission of the chief engineer shall cause the owner to be subject to any enforcement action available to the chief engineer, including levying a civil penalty pursuant to K.S.A. 82a-737, and amendments thereto.

(f) If an owner has been notified that low-flow conditions exist, diversion of water in excess of the rate and quantity authorized by the express written permission of the chief engineer shall cause the owner to be subject to any enforcement action available to the chief engineer, including levying a civil penalty pursuant to K.S.A. 82a-737, and amendments thereto.

(g) Written notice may be issued by the chief engineer to all owners of surface water rights notified pursuant to subsection (b) to inform the owners when low-flow conditions no longer exist.

(Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706a and K.S.A. 2007 Supp. 82a-737; effective Oct. 31, 2008.)

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