

Kansas Administrative Regulations

Kansas Department of Agriculture—Division of Water Resources

Article 5.—Change in the Place of Use, the Point of Diversion or the Use Made of Water Under an Existing Water Right

5-5-16. Additional wells.

(a) An application to change a point of diversion by adding an additional point of diversion to divert groundwater, by either constructing a new well or moving a portion of a water right to a well that has previously been authorized by the chief engineer, shall not be approved unless the application meets the following requirements:

(1) Each proposed point of diversion shall meet the requirements of K.S.A. 82a-708b, and amendments thereto, and any applicable regulations adopted by the chief engineer.

(2) The total maximum quantity of water authorized to be diverted each calendar year by the original well or wells, and the additional well or wells, shall not exceed any of the following limits:

(A) The maximum annual quantity of water that has been perfected;

(B) the maximum annual quantity of water authorized to be diverted before approval of the change; or

(C) the maximum consumptive use of water during the perfection period as required by K.A.R. 5-5-3 and as specified in either of the following:

(i) If the water right authorizes the use of water for irrigation use, the consumptive use of water shall be presumed to not be increased in violation of K.A.R. 5-5-3 if the maximum annual quantity requested does not exceed the quantity in acre-feet calculated by use of the following formula: multiply the maximum number of acres legally irrigated in any one year during the perfection period by the 80 percent chance net irrigation requirements (N.I.R.), as specified in K.A.R. 5-5-12 expressed in acre-feet, and divide that number by a delivery efficiency of 0.85; or

(ii) if the water right authorizes the use of water for irrigation and an additional well or wells are authorized for a beneficial use of water that is not irrigation, the consumptive use of the portion of the water right used for irrigation shall be determined as specified in paragraph (a)(2)(C)(i). The non-irrigation portion of the water right available for diversion shall be determined as specified in K.A.R. 5-5-9 and K.A.R. 5-5-10.

(3) The total maximum rate of diversion that may be authorized for the original well or wells and the additional well or wells shall not be greater than the total maximum rate of diversion that could have been diverted from the original well or wells if they were currently being replaced by new wells at substantially the originally authorized location or locations in the same local source of supply. The maximum rate of diversion shall be one of the following:

(A) The total rate of diversion based on a current water flow rate test done on the point or points of diversion; or

(B) a value resulting from a hydraulic analysis, which may include rate tests, pump tests, and water level data, submitted by the applicant and acceptable to the chief engineer based on the veracity of its data and its proper application of scientific principles, showing the current capacity of the aquifer to yield water at the currently authorized point or points of diversion.

(4) A condition shall be placed on the approval of the application for change authorizing the additional well or wells that provides that, for the sole purpose of administering wells concerning direct impairment, the additional well or wells shall be considered to have the priority of the date the application was filed to add the additional well or wells.

(b) The applicant shall submit the following information:

(1) A well completion log of the currently authorized well or a stratigraphic log of a test hole located within 300 feet of the currently authorized well;

(2) the depth of the currently authorized well;

(3) the current depth to the static water level of the currently authorized well;

(4) a stratigraphic log of a test hole located within 300 feet of the proposed location of each of the proposed additional well or wells; and

(5) any additional information that the chief engineer may require to understand the nature of the proposed additional well or wells.

(c) The proposed additional well or wells shall meet one of the following conditions:

(1) Meet the well spacing requirements to all other wells with a priority earlier than the date on which the change application was filed; or

(2) demonstrate by a hydraulic analysis, which may include rate tests, pump tests, and water level data, as submitted by the applicant and acceptable to the chief engineer based on the veracity of its data and its proper application of scientific principles, that the approval of an additional well within 300 feet of a currently authorized well location, or within the geographic center of a currently authorized battery of wells, will neither impair any water rights senior to the date on which the application for change was filed nor prejudicially affect the public interest.

(d) Each point of diversion authorized by an approval of an application for change for an additional well shall have a specific assignment of a maximum instantaneous rate of diversion and a maximum annual quantity of water.

(e) Each well authorized by a water right that has been changed under the provisions of this regulation shall be equipped with a separate water flowmeter that meets or exceeds the specifications for water flowmeters adopted by the chief engineer.

(f) Each approval of an additional well or wells shall have a condition that reserves jurisdiction for the chief engineer to review the approval of the additional well or wells at intervals of at least five years, and not more than 10 years, to determine if the total annual quantity of water actually being withdrawn by all wells authorized by the approval of an application for change is exceeding the total annual quantity of water that could have been physically withdrawn if the additional well or wells had not been approved. If the chief engineer determines during the review that the total annual quantity being withdrawn by all the wells, including the additional wells, exceeds the total annual quantity of water that could have been physically withdrawn by the original well or wells, the total maximum annual quantity that can be withdrawn by all the wells shall be reduced by the chief engineer to the total maximum annual quantity that could have been physically withdrawn by the original well or wells.

(Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706a and K.S.A. 2016 Supp. 82a-708b; effective Sept. 22, 2000; amended Oct. 24, 2003; amended Sept. 22, 2017.)

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