

Kansas Administrative Regulations

Kansas Department of Agriculture—Division of Water Resources

Article 19.—Local Enhanced Management Areas

5-19-5. Review and modification of a designated LEMA.

(a) Once a LEMA has been designated by the chief engineer, the corrective controls in the LEMA plan shall remain in place until the LEMA expires pursuant to the terms of the LEMA plan or until the LEMA plan is changed.

(1) A GMD's board of directors or staff may request assistance in developing changes or informally reviewing any proposed changes to a LEMA plan before recommending adoption of the changes and submitting the changes to the chief engineer for consideration.

(2) In order to change an existing LEMA plan, each proposed change shall first be adopted by resolution of the GMD and then sent to the chief engineer for a public hearing.

(3) If the chief engineer determines that the proposed changes should be made part of the LEMA plan based on the findings at a public hearing, an order amending the LEMA plan shall be issued. However, no amendments may be retroactively applied in a way that requires greater reductions in water use than were required by the existing LEMA plan.

(b) If any proposed changes result from a formal review of the LEMA plan pursuant to K.S.A. 82a-1041 and amendments thereto or as required by the LEMA plan, the proposed changes with the chief engineer's findings shall be sent to the GMD's board of directors following the formal review hearing. The GMD's board of directors shall have 60 days to review the proposed changes and approve, reject, or amend the proposed changes.

(1) If the proposed changes are approved by resolution of the GMD, the chief engineer shall issue a LEMA review order containing the chief engineer's findings and implementing the changes and amending the LEMA plan.

(2) If the proposed changes are rejected by resolution of the GMD or the GMD fails to act within 60 days, the chief engineer shall issue a LEMA review order summarizing the chief engineer's findings and recommendations but without ordering any changes or amending the LEMA plan.

(3) If the proposed changes are amended by resolution of the GMD and sent back to the chief engineer, an additional public hearing to consider the amendments shall be held. The additional hearing shall allow for the submission of written comments and may be conducted by using a medium for interactive communication that meets the requirements of the Kansas open meetings act, K.S.A. 75-4317 et seq. and amendments thereto. The amendments to the proposed changes shall not be amended by the chief engineer but may only be adopted or rejected as received from the GMD. Following the public hearing on the amendment, the chief engineer shall issue an order with findings that either reject the changes or order the amendment of the LEMA plan.

(c) Each hearing to consider changes in a designated LEMA and each formal review hearing shall be conducted pursuant to the hearing requirements in K.A.R. 5-19-3, unless the existing LEMA plan prescribes different or additional procedural requirements for a formal review.

(d) In addition to any topics required by the LEMA plan to be reviewed, each LEMA plan formal review hearing shall, at a minimum, include review and consideration of the effectiveness of the current corrective controls to meet the LEMA plan's stated goal. This subsection shall not serve as a limitation on topics that the presiding officer may hear or that the public may present during a formal review.

(Authorized by K.S.A. 82a-706a and K.S.A. 82a-1041; implementing K.S.A. 82a-1041; effective Dec. 27, 2021.)

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