RULES AND REGULATIONS
KANSAS WATER APPROPRIATION ACT
(Excerpted)
November 2019

K.A.R. 5-25-4. Sustainable yield. (a) Except as set forth in subsections (b) and (c), the entire district shall be closed to further new surface water and groundwater appropriations.

(b) The following types of applications shall be exempt from the closure of the district to new appropriations of water described in subsection (a):

(1) Domestic use;

(2) temporary permits;

(3) applications for a change in the point of diversion for which the diversion works have been completed under the original approved application;

(4) standby wells used for emergency purposes only;

(5) permits to appropriate 15 acre-feet of water or less per year that are exempt pursuant to K.A.R. 5-25-15;

(6) term permit applications of one year or less and those term applications meeting the requirements of K.A.R. 5-25-13;

(7) permits to appropriate water from a bedrock aquifer;

(8) permits to appropriate water from the Dakota aquifer if the applicant can show either of the following:

(A) No Pleistocene aquifer exists within 5,280 feet of the proposed well location; or

(B) there is a significant difference in hydraulic head between the Pleistocene aquifer and the Dakota aquifer; and

(9) an application that proposes to use water in a manner so that there is no significant consumptive use of the local source of supply either in quantity or availability of water for use by other appropriators.

(10) any application that will enable or provide augmentation in the Rattlesnake creek subbasin pursuant to K.S.A. 82a-706b and amendments thereto, except that no application shall be approved if the application would impair an existing use. The proposed well location shall meet the spacing requirements of K.A.R. 5-25-2; and

(11) any application filed pursuant to K.A.R. 5-25-22.

(c)(1) For each application for a change in the point of diversion, if the diversion works have not been completed, the application shall be exempt from the closure to new appropriations set forth in subsection (a). However, the proposed appropriation, when added to the vested rights, prior appropriation rights, earlier priority applications, term permits for more than a year, and all baseflow node allocations within a two-mile-radius circle whose center is the location of the proposed well, shall not exceed 1,500 acre-feet. It shall be assumed for purposes of analysis that all prior applications, permits, certificates, and vested rights are being fully exercised and that all limitation clauses listed on permits and certificates are in force.

(2) If part of the area within the two-mile-radius circle around the proposed well location is outside the district boundaries, the 1,500 acre-feet quantity of water referred to above in paragraph (c)(1) shall be reduced proportionately by the percentage of the circle lying outside of the district boundaries. Only the baseflow node allocations, vested rights, prior appropriations, earlier priority applications, and term permits for more than one year ascribed to wells within the portion of the circle within the district shall be considered.

(3) If all of the wells authorized under a vested right or an application are not included

inside the circumference of the circle, then a reasonable quantity shall be allocated to each well based upon the best available information.

(4) Each analysis for an application for a change in the point of diversion referred to in subsection (c) shall include all applications with a priority earlier than the priority established by the filing of the application for change. (Authorized by K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028; implementing K.S.A. 82a-706, K.S.A. 82a-706a, K.S.A. 2002 Supp. 82a-708b, and K.S.A. 2002 Supp. 82a-1028; effective May 1, 1980; amended May 1, 1981; amended, T-86-4, March 22, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended April 19, 1996; amended March 16, 2001; amended Oct. 31, 2003; amended Nov. 15, 2019.)