

GROUNDWATER MANAGEMENT DISTRICT ACT

(Excerpted)
July 2023

K.S.A. 82a-1038. Designation of intensive groundwater use control area; orders; review. (a) In any case where the chief engineer finds that any one or more of the circumstances set forth in K.S.A. 82a-1036 and amendments thereto exist and that the public interest requires that any one or more corrective controls be adopted, the chief engineer shall designate, by order, the area in question, or any part thereof, as an intensive groundwater use control area.

(b) The order of the chief engineer shall define specifically the boundaries of the intensive groundwater use control area and shall indicate the circumstances upon which the findings of the chief engineer are made. The order of the chief engineer may include any one or more of the following corrective control provisions: (1) A provision closing the intensive groundwater use control area to any further appropriation of groundwater in which event the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area; (2) a provision determining the permissible total withdrawal of groundwater in the intensive groundwater use control area each day, month or year, and, insofar as may be reasonably done, the chief engineer shall apportion such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights; (3) a provision reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the intensive groundwater use control area; (4) a provision requiring and specifying a system of rotation of groundwater use in the intensive groundwater use control area; (5) any one or more other provisions making such additional requirements as are necessary to protect the public interest. The chief engineer is hereby authorized to delegate the enforcement of any corrective control provisions ordered for an intensive groundwater use control area to groundwater management district number 4 or to any city, if such district or city is located within or partially within the boundaries of such area.

(c) Except as provided by subsection (d), the order of designation of an intensive groundwater use control area shall be in full force and effect from the date of its entry in the records of the chief engineer's office unless and until its operation shall be stayed by an appeal from an order entered on review of the chief engineer's order pursuant to K.S.A. 2009 Supp. 82a-1901 and amendments thereto in accordance with the provisions of the Kansas judicial review act. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county within which such designated control area lies.

(d) If the holder of a groundwater right within the area designated as an intensive groundwater use control area applies for review of the order of designation pursuant to K.S.A. 2004 Supp. 82a-1901 and amendments thereto, the provisions of the order with respect to the inclusion of the holder's right within the area may be stayed in accordance with the Kansas administrative procedure act. (History: L. 1978, ch. 437, § 4; L. 1984, ch. 338, § 31; L. 1990, ch. 363, § 1; L. 1999, ch. 130, § 9; July 1; L. 2010, ch 17, § 214, July 1.)