



11/16/2023

# DRAFT CPNRD RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE NEBRASKA GROUNDWATER MANAGEMENT AND PROTECTION ACT



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## RULES AND REGULATIONS - ADOPTED AND AMENDED DATES

### GROUNDWATER USE IN FULLY AND OVER APPROPRIATED AREAS

Adopted: February 23, 2006

Amended: June 22, 2006  
November 16, 2006  
April 26, 2007  
December 20, 2007  
June 26, 2008  
July 23, 2009  
June 30, 2011  
April 26, 2012  
January 24, 2013  
June 27, 2013  
April 24, 2014  
June 23, 2016  
August 31, 2017  
September 27, 2018  
January 28, 2021  
**November 16, 2023**

### GROUNDWATER QUALITY MANAGEMENT CONTROLS

Adopted: July 23, 1987

Amended: March 23, 1989  
August 27, 1992 July  
24, 2003  
December 18, 2014  
August 31, 2017  
**November 16, 2023**

### GROUNDWATER QUANTITY MANAGEMENT CONTROLS

Adopted: July 23, 1987

Amended: **November 16, 2023**

### CHEMIGATION

Adopted: March 26, 1987

Amended: June 27, 1991 March 19,  
2007 December 18, 2014  
**November 16, 2023**

## **SECTION A - GENERAL PROVISIONS AND PROCEDURES FOR ENFORCEMENT**

### **Section A - Rule 1 Authority**

The authority for these rules is contained in Chapter 46, Reissue Revised Statutes of Nebraska, Article 7 of the Nebraska Ground Water Management and Protection Act (46-701 – 46-756); and the Nebraska Chemigation Act (46-1104 – 46-1116.01).

### **Section A - Rule 2 Area Designations and Boundaries**

These rules apply to the district-wide Management Areas as depicted on the accompanying maps. The District may, by order, designate a groundwater supply management area and a groundwater quality management area following a hearing initiated in accordance with Section 26-673,05, R.R.S 1043, if it shall be determined, following evaluation of relevant data and projection of effects of current and new developments, that a management area is necessary in order to achieve the groundwater reservoir life goal specified in the District's Groundwater Management Plan.

### **Section A - Rule 3 Definitions**

- A.3.1 Alleged Violator:** Any person against which a complaint is filed in accordance with Section E.
- A.3.2 Allowed Use:** A change in a consumptive use practice that does not result in a new net depletion to the river.
- A.3.3 Best Management Practices:** Schedules of activities, maintenance procedures and other management practices utilized to prevent or reduce present and future contamination of groundwater which may include soil testing, water testing, irrigation scheduling, monitoring of irrigation water applications, use of inhibitors, proper timing and rate of fertilizer and pesticide application, and other fertilizer and pesticide management programs as adopted by the Board.
- A.3.4 Board or Board of Directors:** The Board of Directors of the Central Platte Natural Resources District and/or its employees and agents acting at the direction of the Board of Directors.
- A.3.5 Certification:** A current certificate of completion issued by the District to the operator for completion of the necessary educational programs outlined by the District.
- A.3.6 Complainant:** Any person who files a complaint alleging a violation of these rules and regulations in accordance with Section E.

- A.3.7 Compliance Officer:** An employee, agent, or director of the district authorized to perform the functions assigned thereto by these rules and regulations.
- A.3.8 Contamination/Remediation Well:** A water well, constructed to recovery well standards, for the purpose of withdrawal or treatment of contaminated water, or for the introduction or removal of air, water, or chemicals.
- A.3.9 Dewatering Well:** A water well constructed and used solely for the purpose of lowering the groundwater table elevation.
- A.3.10 District:** The Central Platte Natural Resources District.
- A.3.11 Dryland Agricultural Use:** The production of vegetation without the application or use of surface water or groundwater.
- A.3.12 Educational Programs:** Information and educational training sessions designed to acquaint landowners, operators, and the public with best management practices in the operation of natural and water resources.
- A.3.13 Emergency Situation:** Any set of circumstances that requires the use of water from any source that might otherwise be regulated or prohibited and the district reasonably and in good faith believes that such use is necessary to protect the public health, safety, and welfare, including, if applicable, compliance with federal or state water standards.
- A.3.14 Expanded Use:** Consumptive use above and beyond the previous historic use.
- A.3.15 Good Cause Shown:** A reasonable justification for granting a variance to consumptively use water that would otherwise be prohibited by law, statute, rule or regulation and which the district reasonably and in good faith believes will provide an economic, environmental, social or public health and safety benefit that is equal to or greater than the benefit resulting from the prohibition from which a variance is sought.
- A.3.16 Groundwater:** Water which occurs or moves, seeps, filters, or percolates through ground under the surface of the land.
- A.3.17 Groundwater User:** A person who at any time extracts, withdraws, or confines groundwater for any use by himself or allows such use by other persons. Whenever the landowner and operator are different, the term 'groundwater user' shall mean both the owner and the operator.
- A.3.18 Hayland:** Areas of predominately native or introduced grasses (not alfalfa or other legumes) that can be hayed but may on occasion be grazed.
- A.3.19 Historic Consumptive Use:** The amount of water previously consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use was lawfully made.



**A.3.20 Illegal Well** Shall mean:

**A.3.20.1** Any well not registered pursuant to the provisions of Section 46-602 to 46-605, R.R.S. 1943;

**A.3.20.2** Any well in violation of spacing requirements specified by Section 46-609 or 46-651, R.R.S. 1943;

**A.3.20.3** Any well utilized for application of chemical materials in violation of Section 46-1101 to 46-1148 R.R.S. 1943 as such statutes may be amended and supplemented, and such rules and regulations as may be adopted by the Nebraska Department of Environment and Energy;

**A.3.20.4** Any well or pit from which water is transported to an adjoining state in violation of Section 46-613.01, R.R.S. 1943;

**A.3.20.5** Any pit located within 50 feet of the bank of any natural stream and utilized for irrigation purposes without a permit issued pursuant to Section 46-637, R.R.S. 1943;

**A.3.20.6** Any well from which water flows under natural pressure in excess of the provisions of Section 46-281, R.R.S. 1943; or

**A.3.20.7** Any well that is constructed or operated in violation of these or other rules and regulations of the District or of other applicable laws, rules, and/or regulations of the State of Nebraska and its agencies.

**A.3.21 Improper Irrigation Run-Off:** The occurrence of irrigation run-off water:

**A.3.21.1** which causes or contributes to the accumulation of water upon or beneath the surface of the lands of any other person(s) to their detriment, damage, or inconvenience;

**A.3.21.2** which causes or contributes to the deterioration of water quality by depositing sediment and/or associated chemicals in surface water within the area; or

**A.3.21.3** which contributes to waste.

**A.3.22 Inspector:** An employee, agent, or director of the District authorized to perform the functions assigned thereto by these rules and regulations.

**A.3.23 Irrigation:** Artificial means of applying ground and/or surface water to promote the growth of vegetation.

**A.3.24 Irrigation Run-Off Water:** Groundwater used for irrigation purposes which escapes from land owned, leased, or otherwise under the direct supervision and control of a groundwater user. Groundwater which becomes comingled with irrigation runoff from surface water shall be treated as irrigation runoff.

- A.3.25 Landowner:** Any person who owns or is in the process of purchasing land.
- A.3.26 Maximum Acceptable Decline (MAD):** The level below 1982 water levels established by the Board subsequent to the hearing as outlined in Section 46-673.05, R.R.S. 1943 which would still allow the aquifer life to be sustained while at the same time minimize adverse economic impacts to individual water users.
- A.3.27 Monitoring Well:** A water well that is designed and constructed to provide ongoing hydrologic or water quality information and is not intended for consumptive use.
- A.3.28 Offset:** Certified Irrigated Acres returned to dryland agricultural use as a result of a transfer in the location of use.
- A.3.29 Operator:** Person who has the most direct control over the day-to-day farming operations of the land concerned.
- A.3.30 Pasture:** Areas of predominately native or introduced grasses (not alfalfa or other legumes) that can be grazed but may on occasion be hayed.
- A.3.31 Permit:** A document that must be obtained from the district in accordance with Sections 46-735 through 46-738, Revised Statutes of Nebraska.
- A.3.32 Person:** A natural person, partnership, association, corporation, municipality, irrigation district, and any agency or political subdivision of the state.
- A.3.33 Replacement Well:** For the purposes of these Rules and Regulations, a replacement well is defined as follows:
- A.3.33.1** A water well that replaces a water well that will not be used after construction of the new water well with the original water well decommissioned within 180 days of construction of the new water well; and if for irrigation, is constructed to provide water to the same tract of land served by the water well being replaced.
  - A.3.33.2** New wells that irrigate certified land previously irrigated by surface water with the surface water rights associated with that certified land having been acquired by the Natural Resources District for purposes of water banking.
- A.3.34 Supplemental to Groundwater Wells:** Wells that are used to supplement irrigation wells that irrigate lands already irrigated with groundwater provided that the irrigated acres cannot exceed the acres irrigated as defined by Section B, Rule 2.
- A.3.35 Supplemental to Surface Water Wells:** Wells that are used to supplement surface water on the condition that the landowner provides the following (1) verification from the landowner that the well will only be used when the surface water supply has been exhausted and is no longer available to the operator at its normal rotation or scheduled time(s), (2) verification that the landowner will maintain the surface water right (3)

verification that the irrigated acres will not exceed the acres irrigated as defined in Section B, Rule 2, (4) if the surface water right is not maintained, an offset must be provided, and (5) any other requirement or condition the Board may request. (6) Maintaining a surface water right includes paying a maintenance fee but not using the water, and/or a temporary transfer back to the canal company to be put to a beneficial use.

**A.3.36 Test Hole:** A hole designed solely for the purposes of obtaining information on hydrologic or geologic conditions.

**A.3.37 Well or Water Well:** A water well as defined in Section 46-601.01, Revised Statutes of Nebraska.

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## **SECTION B - GROUNDWATER USE IN FULLY AND OVER APPROPRIATED AREAS**

### **Section B - Rule 1 Closure of the Management Area to Issuance of New Well Permits**

Closure of the management area to issuance of new well permits, preventing expansion of irrigated acres, and preventing increases in, or expansion of consumptive use of groundwater for other uses.

- B.1.1** Effective January 5, 2006, and except as provided in the Rules and Regulations of the District, the district-wide management area is closed to the issuance of new well permits by the District.
- B.1.2** Except as provided in the Rules and Regulations of the District, only “irrigated land” as defined in Section B, Rule 2 and/or land which has been certified in accordance with the provisions of Section B, Rule 3 may be irrigated with groundwater on or after January 5, 2006.
- B.1.3** Effective March 22, 2006, and except as provided in the Rules and Regulations of the District, the district-wide management area is closed to increases in, or expansion of, consumptive use of groundwater withdrawals from water wells used for any beneficial purpose other than irrigation, municipal, and industrial. Persons who wish to develop new municipal or industrial wells may apply for a permit from the District. Before issuing such permit, the District may require the applicant to prepare a hydrologic analysis to evaluate possible impacts to wells owned by third parties. To avoid or minimize impacts to third parties and to ensure the goals and objectives of the District’s Integrated Management Plan are met, the District may impose conditions on any permit issued for municipal and industrial uses. Such conditions may include but are not limited to: a limited duration for the operation of any well; require the applicant to acquire the retirement of rights to other hydrologically relevant water, to mitigate or offset any new municipal or industrial consumptive uses; or require a commitment from the applicant to mitigate any adverse impacts to wells owned by third parties. A permit granted for municipal or industrial uses shall not subsequently be eligible to change use.
- B.1.4** Any proposed change of use of an existing well that pumps more than fifty (50) gallons per minute must be approved by Central Platte NRD before such change occurs.
- B.1.5** Wells not subject to Rule B.1.1 are:
  - B.1.5.1** Test holes
  - B.1.5.2** Dewatering wells with an intended use of less than one year.
  - B.1.5.3** Water wells designed and constructed to pump fifty (50) gallon per minute (gpm) or less; provided that if two or more water wells have individual pumping capacities of 50 gpm or less but a combined capacity of more than 50 gpm and

if those wells are to be clustered or joined for a single purpose or if the water is to be commingled or combined for a single purpose, those wells shall be considered as one well and shall be subject to Rule B.1.1.

**B.1.5.4** Water wells to be used as replacement wells as defined in the Rules and Regulations of the District.

**B.1.5.5** A water well that will irrigate land previously irrigated by surface water must maintain its surface water right. If the surface water right is not maintained, an offset must be provided.

**B.1.6** A replacement well as herein defined or as further defined in District Rules and Regulations, is subject to the same provisions as the water well it replaces.

## **Section B - Rule 2 Irrigation History**

**B.2.1** Land under the original stay that will be considered "irrigated land" must show irrigation history by Farm Service Agency (FSA) records. If FSA records are not available, the NRD Board of Directors may consider other things such as County tax records or sworn statements, provided the signer of the sworn statement appears before the Variance/Appeals Committee to give verbal testimony and be available for questions. To be considered irrigated land, the land must have been:

**B.2.1.1** Irrigated prior to the end of the 2005 irrigation season from a water well that was constructed within the nine months prior to the State stay on new irrigated lands, but was not used for irrigation prior to that effective date (July 26, 2004), and further provided that those acres are no greater than the number of acres shown on the permit, or

**B.2.1.2** Irrigated prior to the end of the 2005 irrigation season from a water well that was constructed after the effective date of the State stay on new irrigated lands, but in accordance with a permit granted by the District prior to the effective date of the stay (July 26, 2004), and further provided that those acres are no greater than the number of acres shown on the permit, or

**B.2.1.3** Irrigated in 2003 or 2004 prior to the State stay on new irrigated lands (July 26, 2004), or

**B.2.1.4** Irrigated at least 2 out of the 10 years prior to the State stay on new irrigated lands (July 26, 2004), or

**B.2.1.5** Land that can be shown to have been previously irrigated, but during the 10 years prior to the State stay on new irrigated lands (July 26, 2004) was enrolled in a federal conservation program (CRP, CREP, etc.), or

- B.2.1.6** Land that can be shown to have been previously irrigated, but during at least 9 of the 10 years prior to the State stay on new irrigated lands (July 26, 2004) was growing alfalfa in the sub-irrigation areas in the District.
- B.2.1.7** Pasture or hayland that can be shown to have been irrigated at least 2 out of 10 years and will remain as irrigated pasture or irrigated hayland, unless the average annual consumptive use is transferred to another use and/or location pursuant to the Rules and Regulations of the District.
- B.2.2** Land within the Central Platte NRD, but outside the original State stay that will be considered “irrigated land” must show irrigation history by Farm Service Agency (FSA) records. If FSA records are not available, the NRD Board of Directors may consider other things such as County tax records or sworn statements, provided the signer of the sworn statement appears before the Variance/Appeals Committee to give verbal testimony and be available for questions. To be considered irrigated land, the land must have been:
- B.2.2.1** Irrigated prior to the end of the 2006 irrigation season from a water well that was constructed, but was not used for irrigation prior to that effective date (January 6, 2006), and further provided that those acres are no greater than the number of acres shown on the permit, or
- B.2.2.2** Irrigated prior to the end of the 2006 irrigation season from a water well that was constructed after the effective date of the NRD stay on new irrigated lands, but in accordance with a permit granted by the District prior to the effective date of the stay (January 6, 2006), and further provided that those acres are no greater than the number of acres shown on the permit, or
- B.2.2.3** Irrigated in 2004 or 2005 prior to the NRD stay on new irrigated lands (January 6, 2006), or
- B.2.2.4** Irrigated at least 2 out of the 10 years prior to the NRD stay on new irrigated lands (January 6, 2006), or
- B.2.2.5** Land that can be shown to have been previously irrigated the year prior to the contract, but during the 10 years prior to the NRD stay on new irrigated lands (January 6, 2006) was enrolled in a federal conservation program (CRP, CREP, etc.), or
- B.2.2.6** Land that can be shown to have been previously irrigated, but during at least 9 of the 10 years prior to the NRD stay on new irrigated lands (January 6, 2006) was growing alfalfa in the sub-irrigation areas in the District.
- B.2.2.7** Pasture or hayland that can be shown to have been irrigated at least 2 out of 10 years and will remain as irrigated pasture or irrigated hayland, unless the

average annual consumptive use is transferred to another use and/or location pursuant to the Rules and Regulations of the District.

### **Section B - Rule 3 Certification of Irrigated Acres**

Central Platte NRD staff will gather data to locate and enumerate cropland, hay land and pasture land within district boundaries that is irrigated from groundwater or surface water resources.

- B.3.1** All land under the original State stay that can be shown to have been farmed, grazed, or hayed as irrigated land as outlined in Rule B.2.1.3, B.2.1.4, B.2.1.5, B.2.1.6, B.2.1.7 must be certified.

The NRD Board of Directors may also certify irrigated acres developed within the State's stay area after the effective date of the designation of the stay as outlined in Rule B.2.1.1 or B.2.1.2.

- B.3.2** All land outside the original State stay, but within the Central Platte NRD boundaries, that can be shown to have been farmed, grazed, or hayed as irrigated land as outlined in Rule B.2.2.3, B.2.2.4, B.2.2.5, B.2.2.6, or B.2.2.7 must be certified.

The NRD Board of Directors may also certify irrigated acres developed outside the original State stay but within the NRD boundaries after the effective date of the NRD's limitation and prevention of expansion of irrigated acres (January 6, 2006) as outlined in Rule B.2.2.1 or B.2.2.2.

#### **B.3.3 Procedure to Certify Irrigated Acres**

- B.3.3.1** NRD staff will mail to each landowner in the District a certification document, an aerial photo, and the number of acres on each field that has been initially determined to be irrigated.

- B.3.3.2** If the landowner agrees with the acres irrigated as described in Rule B.3.3.1, the landowner must sign the certification document and return it to Central Platte Natural Resources District within 30 days to complete the certification process.

- B.3.3.3** If the landowner disagrees with the acres irrigated as described in Rule B.3.3.1, the landowner must contact the NRD within 30 days indicating that they disagree with the acres irrigated determination and schedule a conference at a mutually agreeable date with the NRD staff at which time the landowner must provide proof that the acres were irrigated as of July 26, 2004 or proof the land falls under one of the categories in Rule B.2 Irrigation History.

- B.3.3.4** The NRD will accept Farm Service Agency (FSA) 578 records, FSA aerial photos of certified acres. If FSA records are not available, the NRD Board of Directors

may consider other things such as County tax records or sworn statements, provided the signer of the sworn statement appears before the Variance/Appeals Committee to give verbal testimony and be available for questions.

**B.3.3.5** Certification of irrigated acres will only be accepted by the Central Platte Natural Resources District until December 31, 2014.

**B.3.4** Procedure to Withdraw NRD Certification of Irrigated Acres. The NRD Board of Directors may withdraw certification of irrigated acres under the following circumstances:

**B.3.4.1** The landowner petitions or asks the Board of Directors to change the use classification of the certified acres from an irrigated to a non-irrigated land use class.

**B.3.4.1.1** Land that has been proven to be historically irrigated (certified) and is decertified at the landowner's request, will remain dry land unless an offset is provided.

**B.3.4.1.2** Land that is decertified by the District, where irrigated taxes are no longer paid, cannot be marketed as irrigated land. Prior history of irrigation will not be allowed to re-certify the land.

**B.3.4.1.3** Certified acres that are to be decertified may be transferred and used as offsets as long as the land from which the transfer is made remains certified and irrigated taxes are paid until the day of the transfer.

**B.3.4.2** The Farm Service Agency (FSA) or the County Assessor of the county in which the certified acres are located changes the land use classification of the certified acres from an irrigated to a non-irrigated land use class.

**B.3.4.3** The land no longer complies with the definition of irrigated land as provided in Rule B.2, or for such other reasons that the Central Platte NRD Board of Directors deem appropriate.

## **Section B - Rule 4 Transfers**

**B.4.1** General Information: Landowners may request that the NRD Board of Directors authorize changes in the location of certified irrigated acres provided that a) the same amount of water that would be depleted from the river over a 50-year period from consumptive use of groundwater withdrawals are retired from use (offset), and b) the offset occurs at the same time, rate and location as the depletion as identified by the current COHYST model.

The location of the offset shall be considered the same as the depletion if the offset is west of the depletion, or no more than one mile east of a north/south line drawn along



the eastern edge of the area causing the new depletion, and within the same basin of influence as determined by the current COHYST Model.

Offsets must be a minimum of 1.0 acre and any excess water would accrue to the benefit of streamflow.

Acres in a Federal Conservation Program at an irrigated rate will not be eligible to be transferred while enrolled.

All requests shall be made on forms provided by the District and fees will be determined by the Central Platte Natural Resources District Board.

Transfer applications will be accepted between September 1st and March 1st for irrigated acre transfers. Exceptions will be considered for land purchased 90 days after March 1st.

**B.4.2** Issuance: The issuance of a transfer permit shall be conditioned upon the applicant's compliance with the following requirements: (1) the applicant's compliance with the Rules and Regulations of the Districts involved; and (2) with such other conditions deemed appropriate by the District as provided by Rule B.4.2.1 through B.4.2.5.

**B.4.2.1** The landowner shall be required to provide access to his or her property at reasonable times for purposes of inspection by officials of the District.

**B.4.2.2** The application for a transfer permit shall be denied or conditioned to the extent that it is necessary to (1) ensure the consistency of the transfer with the purpose or purposes for which the management area was designated, (2) prevent adverse effects on other groundwater users or on surface water appropriators, (3) prevent adverse effects on the state's ability to comply with an interstate compact or decree, or to fulfill the provisions of any formal state contract or agreement, and (4) otherwise protect the public interest and prevent detriment to the public welfare.

The application for a transfer permit also shall be denied if (1) the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the District or (2) the proposed use would not be a reasonable and beneficial use.

**B.4.2.3** The issuance, by the District, of a transfer permit shall not vest in any person the right to violate any District rule, regulation, or control in effect on the date of issuance of the permit or to violate any rule, regulation, or control properly adopted after such date.

**B.4.2.4** The issuance, by the District, of a transfer permit shall not vest in any person the right to violate any statute, state agency or other jurisdictional agency's rule, regulation, or control in effect on the date of issuance of the permit or to

violate any rule, regulation, or control properly adopted after such date. It is the responsibility of the applicant to ensure compliance with other rules and regulations.

**B.4.2.5** The District shall review such applications and issue, with or without conditions, or deny the permit within sixty (60) days after the application is properly filed. An incomplete or defective application shall be returned for correction. If correction is not made within sixty (60) days of the return date, the application shall be cancelled.

**B.4.3** Soils: Transfers may be limited based upon NRCS Standard Soils Survey and CPNRD Light Detection and Ranging (LiDAR) data.

**B.4.3.1** Transfers off of overlying land of one acre or more to newly irrigated lands will be allowed for cropland on Class I, Class II, Class III, Class IVw, and Class IVs soils as identified in the NRCS Standard Soils Survey and inclusions of soils within Class IVe, VIe, and VIIe soil map units that do not have a high potential for soil erosion due to water or wind, as delineated using CPNRD Light Detection and Ranging (LiDAR) data layer and NRCS Standard Soils Survey.

**B.4.3.2** Transfers of groundwater for the purpose of irrigation of cropland on Class IVe, VIe, and VIIe soils, that have high potential for soil erosion, will be allowed as part of a one-time exemption on up to 10% of a project (any combination of Class IVe, Class VIe, and Class VIIe soils not to exceed 15.0 acres).

**B.4.3.3** Soils that have high potential for soil erosion are considered soils with a slope of 10.00% or more. LiDAR data collected for the CPNRD through 2012 will be utilized to determine areas equal to or greater than 10% slope. Grading, knob knocking, land leveling, or any form of slope alteration does not change soils classification, nor the 2012 slope information derived from LiDAR.

**B.4.3.4** Transfers of groundwater for the purpose of irrigation of grass on Class IVe and VIe soils that have high potential for soil erosion, and not part of an exemption, will be allowed provided the land that the groundwater is being transferred to remains in grass.

**B.4.3.5** Transfers of groundwater for the purpose of irrigation of grass on Class VIIe soils that have high potential for soil erosion, and not part of an exemption, will be allowed provided the land that the groundwater is being transferred to remains in grass.

The existing topography of the land on which the groundwater is transferred for irrigation, that is not part of an exemption, must remain as it is without grading, knob knocking, land leveling or any form of slope alteration. Center pivot travel

ways may be constructed and shall be maintained with the wheel track not exceed a width of three (3) feet.

**B.4.3.6** Transfers of groundwater for the purpose of irrigation on Class Vw, Vlw, Vls, VIIw, VIIs, VIIIw, or VIIIls, soils will be allowed provided the land which the groundwater is being transferred to, complies with the US Department of Agriculture Wetland Conservation Provisions and/or the US Army Corps of Engineers, Section 404 of the Clean Water Act and any other local/state/federal requirements. Documentation of compliance of the aforementioned must be provided to the Central Platte Natural Resources District prior to the transfer review.

**B.4.3.7** Project, as used in these rules, shall mean the entire irrigation complex or system on the same tract of land as the requested variance, such as all the land under a proposed center pivot system.

**B.4.3.8** Transfers of groundwater for the purpose of irrigation on Class VIII soils will not be allowed.

**B.4.4** Groundwater Management Areas: Transfers may be limited based upon Groundwater Management Area declines.

**B.4.4.1** No transfers will be allowed into any sub-area if the groundwater declines of such sub-area meets or exceeds 25 percent of the maximum acceptable decline as defined in Section D-Rule 1. This rule will stay in effect until the average water level is less than the 25 percent decline for five consecutive years, according to the spring water levels, taken by the District.

**B.4.4.2** Supplemental wells as defined in Rule A.3.34 will not be allowed in sub-areas that meet or exceed 25 percent of the maximum acceptable decline.

**B.4.5** Canals, Streams, Creeks, and Reuse Pits: Transfers may be limited based upon application of groundwater over canals, streams, creeks, and reuse pits.

**B.4.5.1** Offsets for groundwater newly applied through center pivots over canals, laterals, flowing drains, and flowing streams located below irrigation delivery canals in the areas west of Kearney will be considered an allowed use.

**B.4.5.2** The bank, berm or dikes bordering the stream, drain or canal need to be maintained. Soil restrictions will apply.

**B.4.5.3** An offset will be required if the allowed use area for the groundwater being applied is filled in within the area west of Kearney.

**B.4.5.4** In other areas of the District, offsets will be required if irrigation water is applied over streams/creeks/drains and the area is not certified irrigated by the District. Soil restrictions will apply.

- B.4.5.5** Streams and creeks in the District that are not certified irrigated to which irrigation water is newly applied will be required to plant and maintain buffer strips on both sides of the high bank of the channel, at least 10 feet or more. Soil restrictions will apply.
- B.4.5.6** Reuse pits that are filled in and irrigated are considered an allowed use and are non-transferable.
- B.4.5.7** Landowners must follow Army Corps of Engineers 404 requirements and any other local/state requirements.
- B.4.6** Transfers Into and Out of the District or State: Transfers may be limited based upon movement across District or State boundaries and are subject to Board approval.
- B.4.6.1** Transfers Into and Out of the District - Any person who desires to withdraw groundwater within the District and transport that groundwater out of the District for use elsewhere or transport water into the District for use, may do so only after obtaining a transfer permit in accordance with these rules.
- B.4.6.2** Transfers Within the State - Use of the withdrawn water must be approved by the District within which the water will be used. Groundwater shall not be transferred or transported to lands outside the boundaries of the Platte River Basin.
- B.4.6.3** Transfers Out of State - Requests for transfer of groundwater out of the State of Nebraska pursuant to NEB. REV. STAT. Section 46-613.01 shall not be acted upon by the District until the Nebraska Department of Natural Resources has approved or denied the required transfer permit. Groundwater shall not be transferred or transported to lands outside of the boundaries of the Platte River Basin.

## **Section B - Rule 5 Variances and Offsets**

- B.5.1** General: The Board may grant variances from the strict application of these Rules and Regulations.
- B.5.2** The request for a variance must provide all the information requested by the District on forms provided by the District, and any other information requested by the District. Such request shall be acted upon by the Board of Directors at a regularly scheduled meeting of the Board.
- B.5.3** The Board may grant variances from the strict application of these Rules and Regulations if it determines that the construction of a new well is necessary to alleviate an emergency situation involving the provision of water for human consumption or

upon other good cause shown. Such request shall be acted upon by the Board of Directors at a regularly scheduled meeting of the Board.

#### **Section B - Rule 6 Area with impacts to the Platte River below Chapman**

- B.6.1** The District's Board of Directors may grant Variances to these Rules and Regulations for an area that impacts the Platte River below Chapman, Nebraska (See Attached Map). These impacts will not have to be offset if the District or the Dept. of Natural Resources determine that any of these new uses are not causing an adverse affect to the Platte River below Chapman.
- B.6.2** The Board will establish an application period of February 28th through April 15th and applicants will be notified of the status of their application by April 30th for the year of 2012. For the crop year 2013 and thereafter, applications will be taken from October 1st through November 30th each year and applicants will be notified of the status of their application by February 1st.
- B.6.3** To be eligible, the applicant must be in compliance with all District regulations and programs and certify that they are in compliance with all Federal and State Programs.
- B.6.4** The Board will establish a ranking system with (1) Fewer acres have a higher ranking, on the number of acres being developed, (2) the least depletion on the river having the highest ranking, and (3) such other items the Board may determine.
- B.6.5** Applications for a variance in the area with impacts to the Platte River below Chapman shall have a non-refundable application fee of \$100.00 on all applications up to 10 acres and a \$150.00 fee for all applications more than 10 acres. The applications are only good for the current application period and cannot be carried over to the next year.
- B.6.6** All existing Rules and Regulations dealing with variances and transfers apply in the area with impacts to the Platte River below Chapman except those dealing with the time that offsets are required.
- B.6.7** If the District and/or the Department of Natural Resources determine the new uses are causing an adverse impact to existing surface water appropriators and/or groundwater users, sufficient numbers of the new uses will be required to provide offsets to the river to mitigate the impacts to the long-term beneficial uses. The Board of Directors will determine a method of selecting those required to make offsets.
- B.6.8** The plan for development must be implemented during the calendar year in which it was approved except for the 2012 calendar year which must be implemented by the 2013 growing season.
- B.6.9** Any application granted is tied to the land for which it was applied and is non-transferable.

**B.6.10** The NRD Board of Directors may deny a change in the location or number of certified irrigated acres in the following instances:

**B.6.10.1** The landowner request would result in re-locating certified irrigated acres from one river basin to another river basin.

**B.6.10.2** The landowner fails to report changes in land use on all tracts that are involved in re-location of irrigated acres.

**B.6.10.3** A citizen or NRD staff provides information to the NRD Board of Directors indicating that adding irrigated acres in a particular area would likely be harmful to the area or is otherwise contrary to NRD rules or state or federal laws.

## **Section B - Rule 7 Participation Eligibility and Rules 30-Year Acreage Reserve Program**

**B.7.1** Definitions: Participation Eligibility and Rules 30-Year Acreage Reserve Program

**B.7.1.1** 30-Year Acreage Reserve Program Agreement: A contract executed between one of the Three Canals, or any other surface water provider and the District according to the terms set forth under the 30-Year Acreage Reserve Program.

**B.7.1.2** Active Participation: Shall mean holding, but not exercising during the designated period, an appropriation right to apply surface water.

**B.7.1.3** Diverter Enrollee: A person who has been deemed by the District and applicable Participating Canal or surface water provider to have satisfied at least two conditions under the 30-Year, namely (1) having an appropriation right to apply surface water; and (2) enrolling with that Participating Canal or surface water provider as a Diverter Enrollee.

**B.7.1.4** Participating Canal: Shall mean one of the Three Canals, or surface water provider throughout the applicable Agreement Term, after it has validly executed a 30-Year Acreage Reserve Program Agreement with the District.

**B.7.1.5** Sufficient Cause: Shall mean “sufficient cause for nonuse,” as that phrase is used in Neb. Rev. Stat. § 46-229.04(2) (2019), of a surface water appropriation right that is held by a Diverter Enrollee in Active Participation with the 30-Year Acreage Reserve Program, an “acreage reserve program” under Neb. Rev. Stat. § 46-229.04(2)(b) (2019).

**B.7.1.6** Three Canals: Shall mean the Cozad Canal, 30-Mile Canal, and Orchard-Alfalfa Canal; and surface water provider (“Provider”) shall mean Nebraska Public Power District.

**B.7.2** Establishment: The Board of Directors hereby creates a 30-Year Acreage Reserve Program.

**B.7.3** Purpose and Intent:

The 30-Year Acreage Reserve Program is established for the following purposes:

**B.7.3.1** To allow surface-water appropriators to preserve their surface-water rights while reducing their consumptive use of surface water;

**B.7.3.2** To maintain the hydrological benefits that functional surface-water-irrigation canals and districts provide, including recharge and reduction in the use of groundwater supplies;

**B.7.3.3** To strengthen the District's working relationship with the Three Canals and Providers;

**B.7.3.4** To allow the District access and flexibility to leverage the water rights held by the Three Canals and Providers to meet conservation goals, including:

**B.7.3.4.1** Basin-Wide Plan for Joint Integrated Water Resources Management of Over-appropriated Portions of the Platte River basin, NE; and

**B.7.3.4.2** The most recently completed Integrated Management Plan, jointly adopted by the District in consultation with the Nebraska Department of Natural Resource pursuant to those entities' statutory authority in Neb. Rev. Stat. § 46-715(1) (2014);

**B.7.3.5** To aid the State of Nebraska in meeting its targets under the Nebraska New Depletion Plan for the Platte River Recovery Implementation Program; and

**B.7.3.6** To provide controllable, wet water that can be released during times of need to assist the District in meeting its goals and mitigation targets.

**B.7.4** 30-Year Acreage Reserve Program Agreements:

**B.7.4.1** Eligibility: Any or all of the Three Canals and Providers shall be eligible to form a 30-Year Acreage Reserve Program Agreement with the District. Each 30-Year Acreage Reserve Program Agreement shall be executed between one of the Three Canals and the District.

**B.7.4.2** Participating Canals/Providers: By validly executing a 30-Year Acreage Reserve Program Agreement with the District, a canal/surface water provider shall become a Participating Canal/Provider, which shall confer on it the right during the first six months of the Agreement Term to enroll eligible persons to become Diverter Enrollees.

**B.7.4.2.1** Effective Date: A 30-Year Acreage Reserve Program Agreement shall become effective upon its execution by the District and Participating

Canal/Provider according to the effective date stated in the agreement.

**B.7.4.2.2** Agreement Term: Unless otherwise stated in the terms of a 30-Year Conservation Program Agreement, the Agreement Term shall be for a period of not more than 30 years from the Effective Date. Upon completion of the Agreement Term, the canal shall cease to be a Participating Canal/ Provider. No 30-Year Acreage Reserve Program Agreement may be terminated and then re-established as to lengthen the original period of the Agreement Term.

**B.7.4.2.3** Termination: A 30-Year Acreage Reserve Program Agreement may be terminated upon the provision of 90 days' written notice by either the District or Participating Canal/Provider to all parties to the agreement. Termination shall cease to grant that Participating Canal/Provider, under the terminated 30-Year Acreage Reserve Program Agreement, a right to give Diverter Enrollees a Sufficient Cause for nonuse of their diversions during the Agreement Term.

**B.7.4.3** Diverter Enrollees: To qualify as a Diverter Enrollee, a person must (1) have an appropriation right to apply surface water from a Participating Canal/ Provider and, (2) enroll with that Participating Canal/Provider as a Diverter Enrollee. Each Participating Canal/Provider may determine the method by which persons may enroll to become a Diverter Enrollee. No person may enroll as a Diverter Enrollee more than six months after the applicable Effective Date.

**B.7.4.3.1** Opting In for Active Participation: Every Diverter Enrollee shall, by March 1 of every year of the applicable Agreement Term, have the option to opt in for Active Participation that year. The opt in date for the first year of the program, 2021, will be March 15.

**B.7.4.3.2** Cap on Opting In: In the event a Participating Canal/Provider deems it to be reasonably necessary, it may establish a maximum number of acres that can be opted-in for Active Participation at any one time.

**B.7.4.3.3** Sufficient Cause: A Divert Enrollee's Active Participation in the 30-Year Acreage Reserve Program shall be deemed to provide a Sufficient Cause for that Diverter Enrollee's non-diversion of all or a portion of the surface-water appropriation rights from the Participating Canal/Provider under Neb. Rev. Stat. § 46-229.04(2)(b) (2019).



**B.7.4.3.4** Presumptive Opt Out: No Diverter Enrollee shall be required to achieve Active Participation in the 30-Year Acreage Reserve Program. Unless a Diverter Enrollee notifies the applicable Participating Canal/Provider that they intend to opt in for Active Participation, they will not be in Active Participation during that year. If a Diverter Enrollee timely opts in to Active Participation for one or more parcels of land but then, due to unforeseen circumstances, does not achieve Active Participation during that year on those parcels, they will not be deemed to be in Active Participation with regard to those parcels. However, such determination shall not affect the Active Participation status for that Diverter Enrollee on their other parcels.

**B.7.5** Reporting: Each year, administrators for each Participating Canal shall collect information about which Diverter Enrollees have opted in for Active Participation that year. Then, by September 30 of each year, administrators for each Participating Canal/Provider shall report, through maps and/or land listings, to the District about which Diverter Enrollees and how many acres have achieved Active Participation during that year. The District shall work with the Participating Canals/Providers to ensure the accuracy of this data. Each year, the District shall provide summary reports to each Participating Canal/Provider about necessary in-season changes, if any, that the District expects or has experienced in the operation of the 30-Year Acreage Reserve Program.

**B.7.6** No Harm to Other Surface Water Users: For the 30-Year Acreage Reserve Program to be considered successful, it is important that no other water users be harmed in the program's implementation and operation. To date, no potential harms have been identified. However, the implementation and operation of this program may, at the District's sole discretion, be modified, amended, or even discontinued in the event that the District finds that such action is necessary to avoid any harms to other parties.

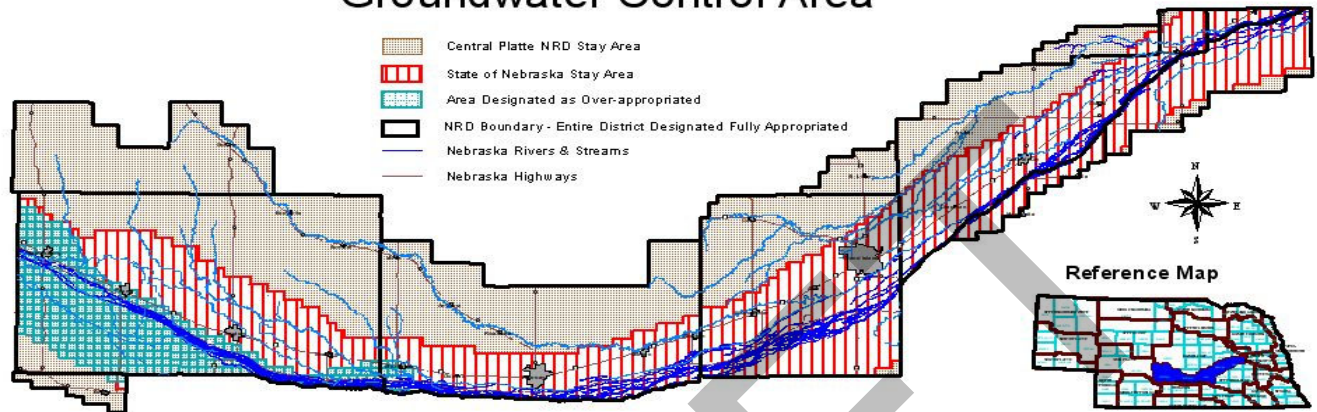
**B.7.7** Entity Roles: The District and any Participating Canals/Providers shall work diligently and in coordination to ensure that the goals of the 30-Year Acreage Reserve Program are accomplished and that all provisions in this section are followed. In addition, Participating Canals/Providers and the District shall have the following specific responsibilities:

**B.7.7.1** Participating Canals/Providers: The Three Canals and Providers shall (1) coordinate communication with and among surface-water diverters who are eligible to become Diverter Enrollees; (2) conduct field inspections, as needed, to determine whether Diverter Enrollees are achieving Active Participation; and, (3) at least once every five years, provide all Diverter Enrollees with the current terms of the 30-Year Acreage Reserve Program.

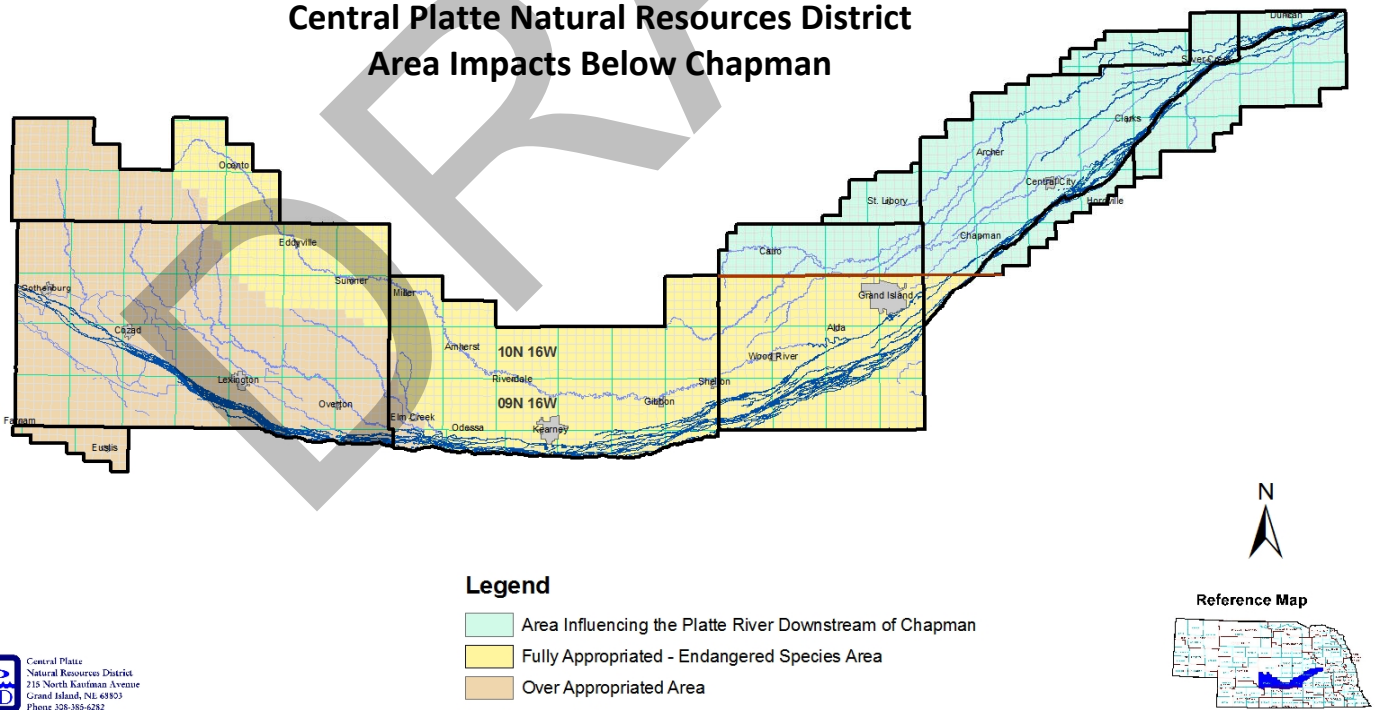
**B.7.7.2** District: The District shall (1) facilitate communication between Diverter Enrollees and the Nebraska Department of Natural Resources (“DNR”); (2) report any information to the DNR that is necessary for the DNR to determine that a Diverter Enrollee who has achieved Active Participation does, indeed, have a Sufficient Cause; (3) facilitate and coordinate communication with and among Participating Canals/Providers and Diverter Enrollees to ensure that the 30-Year Acreage Reserve Program’s goals are met; and (4) not establish any alternative program that would be inconsistent with the terms or purpose of the 30-Year Acreage Reserve Program.

## SECTION B – ATTACHMENT A

### Central Platte Natural Resources District Groundwater Control Area



### Central Platte Natural Resources District Area Impacts Below Chapman



## **SECTION C - GROUNDWATER QUALITY MANAGEMENT CONTROLS**

The following controls shall be utilized in the appropriate phase areas in order to manage those activities having an effect on groundwater quality.

### **Section C - Rule 1 Phase I Areas**

Average nitrate level between 0 and 7.5 ppm and no municipal supply potentially adversely impacted, and no vadose zone nitrates that indicate strong potential for future groundwater quality problems. The following controls shall be utilized in the Phase I areas on fields growing corn, sorghum, or potatoes, unless otherwise noted.

- C.1.1** Fall and winter applications of commercial nitrogen fertilizer shall be banned on sandy soils.
- C.1.2** Fall and winter applications of commercial nitrogen fertilizer on non-sandy soils permitted only after November 1.

### **Section C - Rule 2 Phase II Areas**

Average nitrate level between 7.6 and 10.0 ppm or areas with a municipal supply within a sub-region that is potentially impacted, or areas where vadose zone nitrates indicate strong potential for future groundwater quality problems. The following controls shall be utilized in the Phase II areas on fields growing corn, sorghum or potatoes unless otherwise noted.

- C.2.1** All controls for the Phase I areas will apply to Phase II areas.
- C.2.2** An annual analysis of groundwater from each irrigation well for nitrate/nitrogen levels in parts per million (ppm) with the analysis to be made by a laboratory utilizing EPA approved methods.
- C.2.3** An annual deep soils analysis for residual nitrate/nitrogen on each field or 80-acre tract, whichever is smaller, with the analysis to be conducted by a laboratory participating in the University of Nebraska Soil Testing Program. Each composite sample tested must consist of a mixture from no less than one three-foot probe every five acres.
- C.2.4** If manure or sludge is used, a credit for the nitrogen in the manure or sludge must be used in the calculation for the nitrogen recommendation. A laboratory analysis must be conducted for each source of manure or sludge and attached to the report form.
- C.2.5** A credit for previous year's crop if the previous year was in a legume crop (beans, alfalfa, etc.) must be used in the calculation for the nitrogen recommendation for corn and sorghum.

- C.2.6** Certification by a district developed or approved educational program designed to acquaint landowners and operators with best management practices in the operation of their irrigation and cropping systems, with certification good for a period of 4 years.
- C.2.7** In order for the operator to better manage fertilizer applications and control leaching of nutrients below the root zone, continuous monitoring of the inches of groundwater applied per acre on each field shall be required. Any well located within a Phase II area withdrawing irrigation water for use on land growing corn, sorghum or potatoes which does not have an established operational, approved method of continuous monitoring shall be in violation and deemed to be an illegal well. Approved methods of continuous monitoring shall include:
- C.2.7.1** Request and obtain certification from the District of the well's pumping capacity, and either
    - C.2.7.1.1** Utilize the meter on electric pumps, or
    - C.2.7.1.2** Install an approved hour meter, in order to continuously measure the length of time the well operates during each year.
  - C.2.7.2** Install an approved flow meter in order to continuously measure the quantity of groundwater pumped during each year.
- C.2.8** Where Method C.2.7.1 is selected as the method of continuously monitoring the well, and where it is necessary to install an hour meter, the hour meter installed on any such well within the Phase II areas must:
- C.2.8.1** Be of a type approved by the Board, and
  - C.2.8.2** Be mounted off the power unit. The District will maintain a list of hour meters which are known to meet District approval.
  - C.2.8.3** All groundwater users shall within 30 days of the installation of a new or different hour meter on any well located within the Phase II areas, certify such installation on a form supplied by the District,
  - C.2.8.4** The District staff may periodically check hour meters on a random basis for proper operation.
  - C.2.8.5** When hour meters are removed for servicing or replacement, records of the hour meter reading shall be kept. Meters may be removed for off season storage.
  - C.2.8.6** Any malfunctioning hour meter must be repaired or replaced within 72 hours after discovery.
- C.2.9** Wherever Method C.2.7.1 is not selected as the method of continuously monitoring the well, then Method C.2.7.2 shall be required. Any flow meter installed on any such well

within a Phase II area must (1) meet the specifications for flow meters adopted by the Board and (2) be installed according to the manufacturer's specifications. Any flow meter that does not comply with such specifications shall be inspected by a representative of the District and approved for use by the District that such meter is accurate. The District will maintain a list of flow meters which are known to meet District specifications.

**C.2.9.1** All groundwater users shall within 30 days of the installation of a new or different flow meter on any well located within a Phase II area must certify such installation on a form supplied by the District.

**C.2.9.2** District staff shall periodically check flow meters on a random basis for readings and proper operation.

**C.2.9.3** When flow meters are removed for servicing or replacement, records of the flow meter reading shall be kept. Meters may be removed for off-season storage.

**C.2.9.4** Any malfunctioning flow meter must be repaired or replaced within 96 hours after discovery.

**C.2.10** On or before March 31 of each year, each operator must submit an annual report to the District on forms furnished by the District showing the following data for the upcoming year:

**C.2.10.1** All crops must be reported, which would include corn, sorghum, potatoes, beans, alfalfa, small grains, and any other commodity crop.

**C.2.10.2** The legal description, type of irrigation system, number of wells, and total unregulated crop acres and crop(s) to be planted.

**C.2.10.3** Crops other than corn, sorghum or potatoes do not require soil and water tests.

**C.2.10.4** In addition to the above requirements, the report shall also include the following requirements for corn, sorghum, and potatoes:

**C.2.10.5** The number of acres in corn, sorghum and/or potatoes and the number of field acres irrigated.

**C.2.10.6** The results of the groundwater nitrate/nitrogen analysis in ppm for each well, with each well identified by legal location to the nearest ten acre tract,

**C.2.10.7** The results of the residual nitrate/nitrogen deep soils analysis on each field or 80 acre tract, whichever is less, identified by locations using legal description and showing the irrigation well(s) identified in C.2.10.2 above used to irrigate that field,

- C.2.10.8** Credit for legume crop (beans, alfalfa, etc) and/or manure/sludge applied.
- C.2.10.9** The crop to be grown and the per acre expected yield used as the basis for determining nitrogen needed on each field,
- C.2.10.10** The recommended commercial nitrogen fertilizer application rate utilizing the University of Nebraska's formula for commercial nitrogen fertilizer recommendations, and
- C.2.11** On or before March 31, each operator must submit on the same annual report the following data for corn, sorghum, and potatoes for the previous crop year:
  - C.2.11.1** The actual commercial nitrogen fertilizer applied per acre on each field, the timing of the application(s), and if an inhibitor was used.
  - C.2.11.2** The actual inches of groundwater applied per acre on each field.
  - C.2.11.3** The actual yield achieved per acre on each field.
  - C.2.11.4** The certification by the operator.

### **Section C - Rule 3 Phase III Areas**

Average nitrate level 10.1 or greater ppm or areas with a municipal supply within a sub-region that is potentially impacted, or areas where vadose zone nitrates indicate strong potential for future groundwater quality problems. The following controls shall be utilized in the Phase III areas on fields growing corn, sorghum, or potatoes, unless otherwise noted.

- C.3.1** All controls for the Phase I and Phase II areas will apply to Phase III areas.
- C.3.2** Spring applications (after March 1) of commercial nitrogen fertilizer shall be as follows:
  - C.3.2.1** Split applications are authorized; either pre-plant, pre-emergent or post emergent, when less than 50% of actual nitrogen is being applied as pre-plant or pre-emergent;
  - C.3.2.2** If more than 50% is applied as pre-plant or pre-emergent, the operator is required to furnish dealer documentation that a labeled nitrogen inhibitor was used and at the recommended rate;
  - C.3.2.3** In cases where the total application is 80 pounds per acre of actual nitrogen or less, a labeled nitrogen inhibitor is not required;
  - C.3.2.4** No restrictions if all nitrogen fertilizer is applied post-emergent.

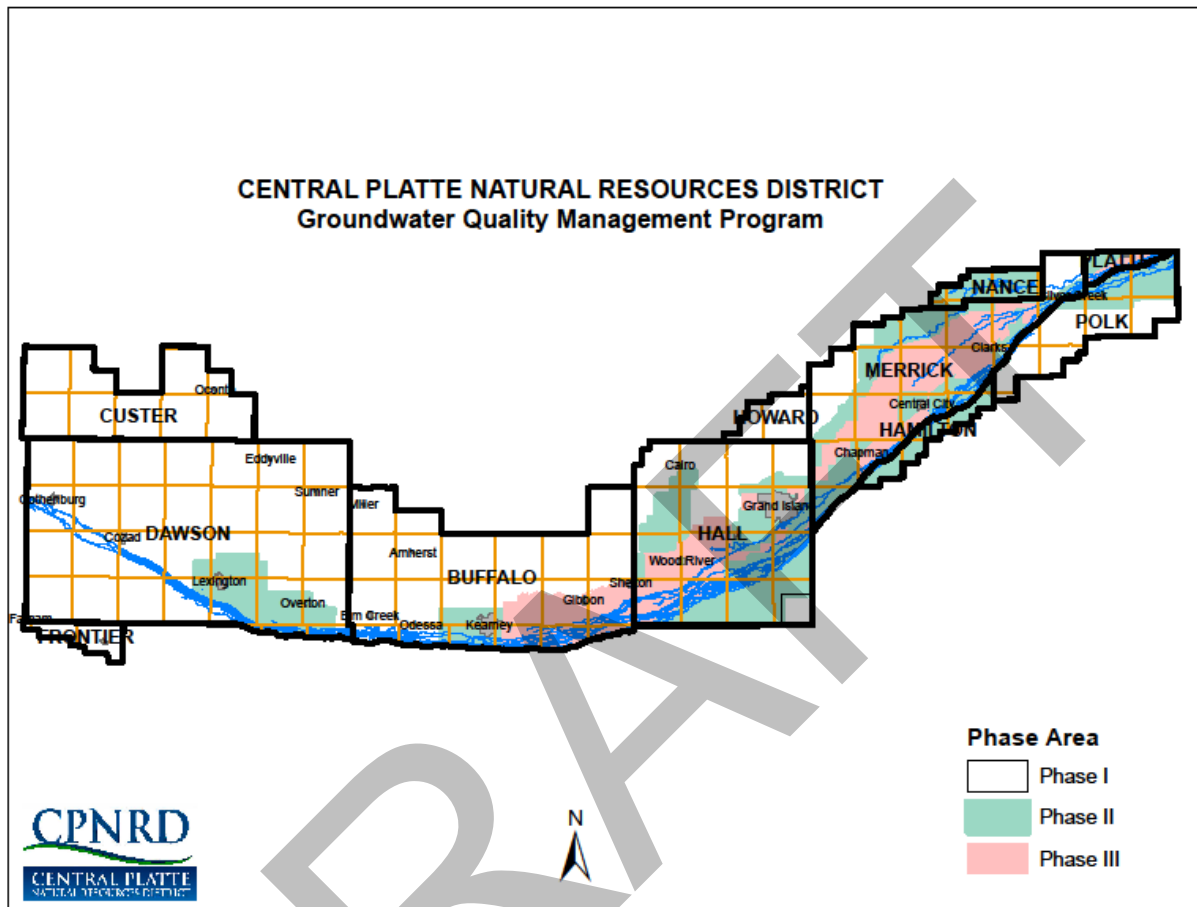
#### **Section C - Rule 4 Phase IV Areas**

Areas where nitrate levels are not declining at an acceptable rate as determined by the Board of Directors. A determination will be made by reviewing the running five-year average of a well or set of wells; the severity of the level; and the anticipated time that would be required to reach a level of 10 ppm. The nitrogen levels would be established by the District using the source well and adjacent wells relevant to the groundwater movement. The following controls shall be utilized in the Phase IV areas on fields growing corn, sorghum, or potatoes, unless otherwise noted.

- C.4.1** All controls for the Phase I, Phase II and Phase III areas will apply to Phase IV areas.
- C.4.2** The expected yield will be set by the District using the last 5-year average of regulated crop plus five percent.
- C.4.3** Nitrogen applications must not exceed the District's recommendations. A copy of a fertilizer receipt showing the amount of fertilizer purchased for the regulated fields will be submitted to the District with the annual report.



## SECTION C – ATTACHMENT A



## **SECTION D - GROUNDWATER QUANTITY MANAGEMENT CONTROLS**

### **Section D - Rule 1 Groundwater Management Areas and Phase Management Level Designations**

The District is divided into twenty-six (26) Groundwater Management Areas (GWMA's). Groundwater quantity shall be managed within each GWMA based on percentage declines from the "Maximum Acceptable Decline" or "MAD" established for each GWMA. Declines in any GWMA of less than twenty-five percent (25%) of the MAD, shall be designated as a Phase I management area; Declines in any GWMA greater than 25% but less than fifty percent (50%) of the MAD, shall be designated as a Phase II management area; Declines in any GWMA greater than 50% but less than seventy-five percent (75%) of the MAD, shall be designated as a Phase III management area; Declines in any GWMA greater than 75% but less than one hundred percent (100%) of the MAD, shall be designated as a Phase IV management area; and declines in any GWMA greater than 100%, shall be designated as a Phase V management area.

### **Section D - Rule 2 Phase I Management Area Controls**

Unless otherwise required by these rules, any GWMA that has been designated as a Phase I management area shall not be subject to any controls.

### **Section D - Rule 3 Phase II Management Area Controls**

In addition to the controls applicable to all GWMA's, any GWMA that has been designated as a Phase II management area shall be subject to the following controls:

#### **D.3.1 Transfer Limitations:**

**D.3.1.1** No transfers of certified acres into GWMA's that are greater than 25% of the MAD.

#### **D.3.2 Limits on Supplemental Wells:**

**D.3.2.1** No additional supplemental wells allowed.

### **Section D - Rule 4 Phase III Management Area Controls**

In addition to the controls applicable to all GWMA's, any GWMA that has been designated as a Phase III management area shall be subject to the controls that apply to Phase II areas and the following controls:

#### **D.4.1 Installation of Approved Well Meters:**

**D.4.1.1** A list of flow meter brands that have been approved by the Board for installation and use within the District is available at the CPNRD office.

**D.4.1.2** All meters will be installed by a licensed installer.

**D.4.2** Reporting Well Meter Data:

**D.4.2.1** All regulated wells will report totalized use to the District in acre-inches and/or acre-feet annually by December 31.

**Section D - Rule 5 Phase IV Management Area Controls**

In addition to the controls applicable to all GWMA's, any GWMA that has been designated as a Phase IV management area shall be subject to the controls that apply to Phase II and Phase II areas and the following controls:

**D.5.1** Allocations:

**D.5.1.1** Will be established by the Board based on the best available data.

**Section D - Rule 6 Phase V Management Area Controls**

In addition to the controls applicable to all GWMA's, any GWMA that has been designated as a Phase V management area shall be subject to the controls that apply to Phase II, Phase III, and Phase IV areas and the following controls:

**D.6.1** Allocation Reduction:

**D.6.1.1** Allocations may subsequently be adjusted based on the best available data.

## **SECTION E - GENERAL PROVISIONS AND PROCEDURES FOR ENFORCEMENT AND PENALTIES**

### **Section E - Rule 1 Enforcement and Penalties**

Any person who violates any controls/Rules or Regulations adopted by the CPNRD shall be subject to the issuance of a cease and desist order and such other legal action as is necessary to bring about compliance.

Any person who violates a cease and desist order or who has repeated or multiple violations of the Rules and Regulations of the CPNRD, shall be subject to a penalty, including but not limited to the following: (1) a reduction (in whole or in part) in that person's allocation of groundwater; (2) a reduction in the number of certified irrigated acres; and/or (3) a permanent forfeiture (revocation) of certified irrigated acres. Such penalties may be permanent or for a specified period of time. The CPNRD Board shall consider the seriousness of the violation when determining the nature of the penalty to be imposed.

Notice and hearing shall be provided to any such person prior to the CPNRD imposing the additional penalties identified in this Paragraph.

**E.1.1** Any person subject to these Rules and Regulations has full knowledge of their contents, requirements, and prohibitions. No person shall be able to use ignorance of the provisions of these Rules and Regulations as a defense in any enforcement action or penalty proceeding.

### **Section E - Rule 2 Complaints**

**E.2.1** Any person may file a complaint with the District against a groundwater user, landowner or operator alleging a violation of these Rules and Regulations; the Act; and/or other Nebraska law, provided that the violation is within the jurisdiction of the District.

### **Section E - Rule 3 Inspections**

Pursuant to Neb. Rev. Stat. § 46-707, District staff may conduct investigations, document reviews and field inspections to confirm compliance with these Rules and Regulations, the Act, and/or other Nebraska law.

**E.3.1** District staff shall notify the ground water user, landowner, or operator, either in person, by postal mail, by electronic communication, or by leaving notice posted at the ground water user's last known address, of any suspected violation(s), of the District's intent to conduct an inspection, and of the purpose of such inspection.

- E.3.2** Pursuant to Neb. Rev. Stat. § 2-3232(1), District staff shall be authorized to enter upon the land to investigate complaints and alleged violations, and to conduct field inspections after providing the groundwater user, landowner, or operator with notice as described above.
- E.3.3** Upon completion of the investigations and/or inspections described above, the District staff member shall file with the CPNRD Manager a written report setting forth his or her findings.

#### **Section E - Rule 4 Submission of Inspection Report Alleging Violation and Alleged Violator's Alternatives**

If the District Manager finds that the groundwater user, landowner, or operator is in violation of these Rules and Regulations, the Act and/or other Nebraska law, the staff report described above shall be sent to the violator, accompanied by a formal notice of intent to issue a cease and desist order. The staff report and notice of intent to issue a cease and desist order shall be provided to the groundwater user, landowner, or operator by hand delivery, or via certified mail, return receipt requested, and by postage prepaid, First Class U.S. Mail.

If the groundwater user, landowner, or operator believes the report to be in error and no violation has or is occurring, he/she may make a written request for a hearing before the CPNRD Board of Directors. Any written request for a hearing must be received at the CPNRD Office within seven (7) business days (excluding Saturdays, Sundays, and legal holidays), of receipt of the staff report and notice of intent to issue a cease and desist order. If the violator fails to make a timely request for a hearing, the District shall issue the cease and desist order and provide a copy to the violator.

#### **Section E - Rule 5 Compliance**

When a groundwater user, landowner, or operator achieves compliance, the District shall lift the cease and desist order or modify it to ensure future compliance. Notwithstanding compliance, the District may impose penalties including, but not limited to, revoking the certification for the irrigated parcel(s) that is the subject of the violation.

#### **Section E - Rule 6 Hearing**

If the groundwater user, landowner, or operator makes a timely, written request for a hearing, the CPNRD Board shall schedule such hearing at its District headquarters. Such hearing shall be held no sooner than ten (10) days and not more than forty-five (45) days after receipt of the request for a hearing has been received by the District.

- E.6.1** Notice of the hearing shall be provided to the groundwater user, landowner, or operator and any other necessary person. Such notice shall be provided via certified mail, return receipt requested, and by First Class U.S. Mail. The notice shall inform the groundwater user, landowner, or operator that, if he or she fails to appear at the scheduled hearing, the Board shall proceed to make a final determination as to the alleged violation of these Rules and Regulations, the Act and/or other Nebraska law, and whether to issue a cease and desist order against the groundwater user, landowner, or operator.
- E.6.2** The CPNRD Board shall conduct the hearing to provide due process of law and shall receive all relevant information regarding the alleged violation, from the District and from the groundwater user, landowner, or operator. The CPNRD Board shall keep a record of the hearing and shall base its decision on whether to issue a cease and desist order solely on the information received at the hearing. The CPNRD Board shall render its decision in writing and provide the same to the groundwater user, landowner, or operator via certified mail, return receipt requested, and via postage prepaid First Class, U.S. Mail.
- E.6.2.1** In addition to the authority set forth in Neb. Rev. Stat. §§ 46-745 and 46-746, the District may enforce these Rules and Regulations through voluntary compliance document with a hearing waiver signed by the landowner.
- E.6.3** In the event of multiple or repeated violations or a violation of the cease and desist order by the same groundwater user, landowner, or operator, the District may hold a separate hearing to determine whether to impose additional penalties. The CPNRD Board shall provide written notice of the separate hearing to impose additional penalties on the groundwater user, landowner, or operator via certified mail, return receipt requested and by prepaid First-Class U.S. Mail. Such notice shall specify the date, time, and location of any such hearing.
- The hearing shall be conducted to provide the appropriate due process and ensure all relevant information from the groundwater user, landowner, or operator is considered before rendering a written decision. Only information received at the hearing shall be considered by the CPNRD Board to determine whether to impose any penalty. The District shall keep a record of that hearing and provide its written decision to the groundwater user, landowner, or operator via certified mail, return receipt requested and via First Class U.S. Mail.
- E.6.3.1.** For any violations, the offending party may waive his/her right to a hearing and accept to comply with a compliance plan offered by the District. Failure to successfully implement the compliance plan shall result in additional penalties.

#### **Section E - Rule 7 Board Authorization to Initiate Court Action**

The Board may initiate appropriate legal actions to enforce any action or order of the District.

#### **Section E - Rule 8 Cease and Desist Order; Violation; Penalty**

As provided by the Act, any violation of a cease and desist order issued by the District pursuant to the Act shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each day an intentional violation occurs, per Neb. Rev. Stat. § 46-745(1).

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## **SECTION F - RULES AND REGULATIONS PERTAINING TO THE CHEMIGATION PROGRAM**

The Central Platte Natural Resources District has adopted the Nebraska Department of Environment and Energy's Title 195 –Chemigation Regulations pertaining to chemigation with these additional rules and regulations. These rules and regulations were adopted and amended by the Board of Directors of the Central Platte Natural Resources District on March 26, 1987, June 27, 1991, March 19, 2009, December 18, 2014, and \_\_\_\_\_ Date.

### **Section F - Rule 1 Permit Applications, Certification**

**F.1.1** The following items are required on the chemigation permit application for the permit holder:

- a. Name
- b. Address
- c. Phone
- d. Legal description of injection location
- e. County
- f. Field name
- g. New, renewal or emergency permit
- h. Type of injection unit (portable or stationary)
- i. Drip system (yes or no)
- j. List of chemicals used and amount used in chemigation system the prior year
- k. Signature

**F.1.2** The following items are required on the chemigation permit application for the certified applicator:

- a. Name
- b. Phone number
- c. Certification number
- d. Expiration date
- e. Signature



## **Section F - Rule 2 Permit Fees**

As required by Title 195 of Nebraska Department of Environment and Energy's chemigation regulations, the District shall review applications and approve or deny permits. No permit may be approved without payment of the requisite permit fee, which shall reflect the cost of administration and inspections.

- F.2.1** An original application fee of \$60.00 for each new permit shall be paid to the District, of which \$5.00 shall be paid to the Department of Environment and Energy.
- F.2.2** A special permit application fee of \$60.00 shall be paid to the District, of which \$5.00 shall be paid to the Department of Environment and Energy.
- F.2.3** The annual renewal fee of \$20.00 shall be paid to the District, of which \$2.00 shall be paid to the Department of Environment and Energy.
- F.2.4** An emergency permit application fee of \$500.00 shall be paid to the District, of which \$10.00 shall be paid to the Department of Environment and Energy.

## **Section F - Rule 3 Equipment Standards**

- F.3.1** The mainline check valve may be moved from site to site, provided there has been modifications made to the systems that accept a portable mainline check valve.
- F.3.2** The permit holder/applicator may ask the inspector to assist in the removal and/or attachment of the vacuum relief valve or injection line valve. The District will not be responsible for damage done to those valves during the removal and/or reattachment process, or for any valve defect. The District will replace any injection line check valve only if damaged during the testing process for that valve.

## **Section F - Rule 4 Property Access, Inspections**

- F.4.1** The chemigation system is required to be started, brought to a normal operating pressure, and shut down for the inspection process. A permit holder or applicator is required to be present during the inspection by District staff. Inspectors will not operate any irrigation or chemigation equipment, nor will they open any electrical control box.
- F.4.2** A full inspection requiring a start-up and shut-down of the chemigation system will be required a minimum of once every three years.
- F.4.3** If the system was not inspected the year it was due for re-inspection, the permit will be suspended. A renewal application for a suspended permit will not be approved until the system has been inspected and all requirements are met.

- F.4.4** The District will make area-wide selective and periodic inspections of non-permitted irrigation systems. The District will also investigate complaints concerning non-permitted systems. In cases of non-cooperation by an irrigator, the District may apply for an inspection warrant with the respective county court in which the system is located. The warrant will then allow the employee entry onto the property to perform the duties under the Nebraska Chemigation Act.
- F.4.5** In certain cases permit holders/applicators may chemigate in areas along District boundaries or they may chemigate in more than one District. In these situations, the Central Platte Natural Resources District (NRD) will allow neighboring District Staff to cross over the boundary and inspect systems within the Central Platte NRD. In such cases, the Central Platte NRD may consider system inspections by staff of neighboring Districts as satisfying the requirements of the Central Platte NRD provided a reciprocity agreement has been made with the neighboring District. Central Platte NRD may likewise perform inspections outside of the District.
- F.4.6** If District Staff is required to make a second trip to complete a chemigation inspection, a \$50.00 fee can be charged to the permit holder. If a third trip is required, the fee would increase to \$100.00.