



FOR THE ENFORCEMENT OF THE NEBRASKA GROUNDWATER MANAGEMENT AND PROTECTION ACT

Updated January 2021

Table of Contents

FOR THE ENFORCEMENT OF THE NEBRASKA GROUNDWATER MANAGEMENT AND PROTECTION ACT

SECTION A – GENERAL PROVISIONS AND PROCEDURES FOR ENFORCEMENT

RULE 1	Authority.....	1
RULE 2	Area designations and Boundaries.....	1
RULE 3	Definitions: A.2.1 – A.2.42	1-5

SECTION B – GROUNDWATER USE IN FULLY AND OVER APPROPRIATED AREAS

RULE 1	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.....	7
RULE 2	Irrigation History	
	B.2.1 Land under Original State Stay	8
	B.2.2 Land within Central Platte NRD but outside the Original State Stay	8
RULE 3	Certification of Irrigated Acres	
	B.3.1 Certification in the Original State Stay	9
	B.3.2 Certification Outside the Original State Stay	10
	B.3.3 Procedure to Certify Irrigated Acres	10
	B.3.4 Procedure to Withdraw NRD Certification of Irrigated Acres	10
RULE 4	Transfers	
	B.4.1 General Information	11
	B.4.2 Issuance	12
	B.4.3 Soils	12
	B.4.4 Groundwater Management Areas – Declines	15
	B.4.5 Canals, Streams and Creeks	15
	B.4.6 Transfers Into and Out of the District or State	16
	B.4.7 Purchase of Water from District’s Water Bank	16
RULE 5	Variances and Offsets	
	B.5.1 General Information	16
	B.5.2 Information Requested by Board	16
	B.5.3 Emergency Variances	16
RULE 6	Area with Impacts to the Platte River below Chapman	
	B.6.1 Allowed Variances	17
	B.6.2 Application Period	17
	B.6.3 Compliance	17
	B.6.4 Ranking System	17
	B.6.5 Application Fee	17
RULE 6	Area with Impacts to the Platte River below Chapman (<i>continued</i>)	

	B.6.6	Offsets - Timing	17
	B.6.7	Offsets – Adverse Impact	17
	B.6.8	Implementation	17
	B.6.9	Granted Application	18
	B.6.10	Denial	18
RULE 7		Participation Eligibility and Rules – Groundwater Exchange Program	
	B.7.1	Definitions	18
	B.7.2	General Information.....	20
	B.7.3	Pre-Approval Process	20
	B.7.4	Platte Basin – Sectors and Bids	24
	B.7.5	Platte Basin – Evaluation and Trade Prices	26
	B.7.6	Loup Basin – Sectors and Bids	27
	B.7.7	Loup Basin – Evaluation and Trade Prices	28
	B.7.8	Bid Submission	29
RULE 8		Thirty-Year Acreage Reserve Program	
	B.8.1	Definitions	29
	B.8.2	Establishment	30
	B.8.3	Purpose and Intent	30
	B.8.4	Thirty-Year Acreage Reserve Program Agreements	30
	B.8.5	Reporting	32
	B.8.6	No Harm to Other Surface Water Users	32
	B.8.7	Entity Roles	32
		SECTION B – Attachments.....	34
	B.A.1	Groundwater Control Area Map	34
	B.A.2	Sub-Irrigated Area Map	35
 SECTION C – GROUNDWATER QUALITY MANAGEMENT CONTROLS			
	SECTION C – RULE 1	Phase I Areas	37
	SECTION C – RULE 2	Phase II Areas	37
	SECTION C – RULE 3	Phase III Areas	40
	SECTION C – RULE 4	Phase IV Areas	41
	SECTION C – Attachments		42
	C.A.1	Groundwater Quality Management Areas	42

SECTION D – GROUNDWATER SUPPLY (QUANTITY) MANAGEMENT CONTROLS

SECTION D – RULE 1	CONTROLS “ROTATION”	43
D.1.1	Supply Management Area in a Phase I Program	43
D.1.2	Supply Management Areas in a Phase II Program	43
D.1.3	Supply Management Areas in a Phase III Program	44
D.1.4	Supply Management Areas in a Phase IV Program	46
D.1.5	Supply Management Areas in a Phase V Program	47
D.1.6	Adopted Decline, Rotation and Crop Conversion	48
SECTION D – RULE 2	OPTIONAL – “ALLOCATION CONTROLS”	50
D.2.1	Supply Management Areas in a Phase I Program	50
D.2.2	Supply Management Areas in Phase II, III, IV and V Program	50
D.2.3	Well Registration and Certification	51
D.2.4	Flow Meters	51
D.2.5	Allocation	53
SECTION D – APPENDIX	55
D.A.1	Technical Specification for Selection of Flow Meters	55
D.A.2	Standard for Flow Meter Installation	56
D.A.3	Recommended Operation and Maintenance of Flow Meters	57

SECTION E – VIOLATIONS

SECTION E – RULE 1	General	59
SECTION E – RULE 2	Complaints	59
SECTION E – RULE 3	Inspections	60
SECTION E – RULE 4	Submission of Inspection Report alleging violation and alleged Violator’s alternatives	60
SECTION E – RULE 5	Schedule of Compliance	60
SECTION E – RULE 6	Board Action Subsequent to Landowner, Operator, Groundwater User, Complainant, Compliance Officer or Board Member Request for Hearing	61
SECTION E – RULE 7	Board Action if Alleged Violator Fails to Respond or Appear	61
SECTION E – RULE 8	Board Authorization to Initiate Court Action	61
SECTION E – RULE 9	Violations for Groundwater Use in Fully and Over Appropriated Areas	62
E.9.1	Purchase of Water from District’s Water Bank	62
E.9.2	Violation Remedy/Penalty Involving Irrigation Restrictions	62
E.9.3	Violation Procedure Involving Soil Cover Restrictions	63
E.9.4	Rules & Regulations Enforcement	63

SECTION F – RULES & REGULATIONS PERTAINING TO THE CHEMIGATION PROGRAM

SECTION F – RULE 1	Central Platte Natural Resources District’s Chemigation Rules And Regulations	65
F.1.1	Chapter 2 - Permits; When Required; Applications; Authorization by Rule	65
F.1.2	Chapter 7 - Permits; Fees	65
F.1.3	Chapter 9 - Equipment; Standards; Installation	66
F.1.4	Chapter 11 - Inspections; Access	66
SECTION F – RULE 2	Nebraska Department of Environmental Quality Title 195 – Chemigation Regulations	69

DATES RULES AND REGULATIONS ADOPTED AND AMENDED

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

GROUNDWATER QUALITY MANAGEMENT CONTROLS

Adopted: July 23, 1987

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

GROUNDWATER QUANTITY MANAGEMENT CONTROLS

Adopted: July 23, 1987

CHEMIGATION

Adopted: March 26, 1987

Amended: June 27, 1991
March 19, 2007
December 18, 2014

**RULES AND REGULATIONS
FOR THE ENFORCEMENT OF THE
NEBRASKA GROUNDWATER MANAGEMENT AND PROTECTION ACT**

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.2.1 Alleged violator: shall mean any person against which a complaint has been filed in accordance with Section E - Rule 2.
- A.2.2 Allowed Use: A change in a consumptive use practice that does not result in a new net depletion to the river.
- A.2.3 Best management practices: shall mean schedules of activities, maintenance procedures and other management practices utilized to prevent or reduce present and future contamination of groundwater which may include soils 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.2.4 Board or board of directors: shall mean 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.2.5 Certification: shall mean a current certificate of completion issued by the District to the operator for completion of the necessary educational programs outlined by the District.
- A.2.6 Complainant: shall mean any person who files a complaint alleging a violation of these rules and regulations in accordance with Section E – Rule 2.
- A.2.7 Compliance officer shall mean an employee, agent, or director of the district authorized to perform the functions assigned thereto by these rules and regulations.
- A.2.8 Contamination/Remediation Well: shall mean 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.2.9 Crop conversion factor: shall be that adjustment adopted by the Board subsequent to a hearing as outlined in Section 46-673.05, R.R.S. 1943 to reflect an alternate crop's increase or decrease in water consumption as compared to corn.
- A.2.10 Dewatering Well: shall mean a water well constructed and used solely for the purpose of lowering the groundwater table elevation.
- A.2.11 District: shall mean the Central Platte Natural Resources District.
- A.2.12 Dryland Agricultural Use: the production of vegetation without the application or use of surface water or groundwater, whether applied directly or by sub-irrigation.
- A.2.13 Educational programs: shall mean information and educational training sessions designed to acquaint landowners and operators with best management practices in the operation of their irrigation and cropping systems.
- A.2.14 Emergency Situation: shall mean 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 quality standards.
- A.2.15 Expanded Use: shall mean consumptive use above and beyond the previous historic use.
- A.2.16 Good Cause Shown: shall mean 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.2.17 Groundwater: shall mean that water which occurs or moves, seeps, filters, or percolates through ground under the surface of the land.
- A.2.18 Groundwater user: shall mean 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.2.19 Hay land: shall mean areas of predominately native or introduced grasses (not alfalfa or other legumes) that can be hayed but may on occasion be grazed.
- A.2.20 Historic Consumptive Use: shall mean the amount of water that has previously been 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.2.21 Illegal well shall mean:
- A.2.21.1 Any well not registered pursuant to the provisions of Section 46-602 to 46-605, R.R.S. 1943;
 - A.2.21.2 Any well in violation of spacing requirements specified by Section 46-609 or 46-651, R.R.S. 1943;
 - A.2.21.3 Any new irrigation well installed closer than 900 feet from any existing irrigation well in a Phase II quantity management area; closer than 1200 feet from any existing irrigation well in a Phase III quantity management area; closer than 1500 feet from any existing irrigation well in a Phase IV quantity management area; or closer than 1800 feet from any existing irrigation well in a Phase V quantity management area designated by the District.

- A.2.21.4 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 from time to time by the State Department of Environmental Control.
- A.2.21.5 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.2.21.6 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.2.21.7 Any well from which water flows under natural pressure in excess of the provisions of Section 46-281, R.R.S. 1943; or
- A.2.21.8 Any well 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.2.22 Improper irrigation run-off: shall mean the occurrence of irrigation run-off water
- A.2.22.1 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.2.22.2 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.2.22.3 which contributes to waste.
- A.2.23 Inspector: shall mean an employee, agent, or director of the District authorized to perform the functions assigned thereto by these rules and regulations.
- A.2.24 Irrigation: shall mean artificial means of applying ground and/or surface water to promote growth of vegetation.
- A.2.25 Irrigation run-off water: shall mean 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.2.26 Landowner: shall mean any person who owns or is in the process of purchasing land.
- A.2.27 Maximum acceptable decline: shall be that 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.2.28 Monitoring Well: shall mean a water well that is designed and constructed to provide ongoing hydrologic or water quality information and is not intended for consumptive use.
- A.2.29 Offset: Certified Irrigated Acres returned to dryland agricultural use as a result of a transfer in the location of use.
- A.2.30 Operator: shall mean that person who has the most direct control over the day-to-day farming operations of the land concerned.
- A.2.31 Pasture: shall mean areas of predominately native or introduced grasses (not alfalfa or other legumes) that can be grazed but may on occasion be hayed.
- A.2.32 Permit: shall mean a document that must be obtained from the district in accordance with Sections 46-735 through 46-738, Revised Statutes of Nebraska.

- A.2.33 Person: shall mean a natural person, partnership, association, corporation, municipality, irrigation district, and any agency or political subdivision of the state.
- A.2.34 Predicted stable rotation percentage: shall be that rotation percentage established by the Board subsequent to a hearing as outlined in Section 46-673.05, R.R.S. 1943 which the Board feels based upon the best available data is the rotation percentage necessary to achieve a sustained yield objective.
- A.2.35 Rainfall adjustment factor: shall be that adjustment factor adopted by the Board subsequent to a hearing as outlined in Section 46-673.05, R.R.S. 1943 that is used to adjust annual declines or rises in the measured water level to reflect variations in precipitation.
- A.2.36 Replacement Well: For the purposes of these Rules and Regulations, a replacement well is defined as follows:
- A.2.36.1 A water well which 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.2.36.2 A water well that is 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.2.36.3 A water well that is 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, or a temporary transfer back to the canal company to be put to a beneficial use.
- A.2.36.4 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.2.37 Rotation: shall mean a recurring series of use and non-use of a part of the producer's developed irrigated acres on an annual basis.
- A.2.38 Rotation percentage: shall mean that percentage of land, as adopted by the Board, of each landowner's total developed irrigated acres he is permitted to irrigate in any one irrigation season. The said percentage may be subject to adjustment by the adopted crop conversion factor.
- A.2.39 Sub Irrigated: Land areas where the average static water level is twelve feet or less for such deep- rooted crops including but not limited to alfalfa and clover; and seven feet for such deep rooted grasses including but not limited to big blue stem.
- A.2.40 Test Hole: shall mean a hole designed solely for the purposes of obtaining information on hydrologic or geologic conditions.
- A.2.41 Weather adjusted decline: shall be the water level modified by the rainfall adjustment factor that the District utilizes as a basis for triggering management decisions.

A.2.42 Well or Water Well: shall mean a water well as defined in Section 46-601.01, Revised Statutes of Nebraska.

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, 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.
- 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 ninety days.
 - B.1.5.3 Water wells designed and constructed to pump fifty (50) gallon per minute or less; provided that if two or more water wells have individual pumping capacities of fifty (50) gallons per minute or less but a combined capacity of more than fifty (50) gallons per minute 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 their 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 State stay that will be considered “irrigated land” must show irrigation history by Farm Service Agency (FSA) records. If Farm Service Agency (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 Natural Resources District, but outside the original State stay, that will be considered “irrigated land” must show irrigation history by Farm Service Agency (FSA) records. If Farm Service Agency (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 Farm Service Agency (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 Natural Resources District 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. Sub-irrigated offsets may be limited to plant species identified in the CPNRD's *Guidelines for Waterbanked Lands in Sub-irrigated Areas* (See Section B-Appendix A)

Certified acres coming out of a Federal Conservation Program Contract must be Under the same ownership for two years prior to a water transfer.

All requests shall be made on forms provided by the District.

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 District's 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 Vle 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, Vle, 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 Vle & Class VIIe soils not to exceed 15.0 acres) transferred at one times the acres or acre-feet whichever is greater. If the land which the groundwater is being transferred from is a Class VIIe soil, it must be seeded back to Central Platte NRD approved grasses following the transfer.
- 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 Vle 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, VIw, VIs, VIIw, VIIs, VIIIw, or VIIIs, 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 Transfers of groundwater for the purpose of irrigation of cropland on Class IVe, Vle and Vlle soils will be allowed under the following specified criteria for Small Area Exemptions:

B.4.3.7.1 The small area exemption applies to: Class IVe, Vle and Vlle soils that have high potential for soil erosion that involve such areas as:

- a. Small non-cropland areas such as abandoned farmsteads, areas around filled or capped wells, rock piles, trees or brush, etc., within or adjacent to existing cropland fields.
- b. Small, cropland areas, certified as non-irrigated land such as center-pivot corners or wedges within or adjacent to existing irrigated land.
- c. 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.4.3.7.2 The small area exemption may be granted in conjunction with:

- a. Installation of new or improved irrigation systems such as the conversion from a gravity to sprinkler (i.e. center pivot) or subsurface irrigation system.
- b. Modification of an existing irrigation system such as the addition of a corner system to an existing center pivot.
- c. The small area exemption size is limited to 15 acres.

B.4.3.7.3 The small area exemption shall be allowed on up to 10% of a Project not to exceed 15 acres of a high potential for soil erosion on Class IVe, Vle or Vlle soils.

- a. Transfers to areas utilizing the small area exemption shall be made from the most highly erodible areas available.
- b. 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 ground water 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.2.36.2 will not be allowed in sub-areas that meet or exceed 25 percent of the maximum acceptable decline.

B.4.5 Canals, Streams, and Creeks: 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 required to be offset based upon the following criteria:

- a. A depletion factor in the range of 0-25% assumes an accretion to the river is four times the depletion caused by pumping on the wetted area (wetted area x 4 is considered offset)
- b. A depletion factor in the range of 26-50% assumes an accretion to the river is two times the depletion caused by pumping on the wetted area (wetted area x 2 is considered offset).
- c. A depletion factor in the range of 51-75% assumes an accretion to the river is one and one half the times of depletion caused by pumping on the wetted area (wetted area x 1.5 is considered offset).
- d. A depletion factor in the range of 76-100% assumes an accretion to the river is equal to the depletion caused by pumping water on the wetted area (wetted area is considered offset).

B.4.5.2 These potential credits can only be applied to those areas directly associated with the bank, berm or dikes bordering the stream, drain or canal and are non-transferable outside the proposed center pivot area. Soil restrictions will apply.

B.4.5.3 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.4.5.4 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.4.5.5 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.
 - 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.
- B.4.7 Purchase of water from District's Water Bank
 - B.4.7.1 Purchase of water for irrigation from the District's Water Bank must be used on the land for which the water was purchased for at least four years before any new transfer of the purchased water can be made.

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 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 as long as 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 – Groundwater Exchange Program**

B.7.1 Definitions – Participation Eligibility and Rules – Groundwater Exchange Program

B.7.1.1 “Acres” and “irrigated acres” mean acres within the Central Platte Natural Resources District (“CPNRD” or “District”) either in the Central Platte basin of influence (“Platte Basin”) or in the Loup basin of influence (“Loup Basin”).

B.7.1.2 “Producer” means an individual, company, governmental entity or non profit organization that owns, controls, manages, or has a legal interest in land located within the District.

B.7.1.3 The Groundwater Exchange Program (“Program”) is a program through which (i) a producer with a certified groundwater use on irrigated acres may temporarily convey an authorization to use its right to use groundwater on a portion of or all of its acres for the upcoming growing season; and (ii) a producer may temporarily acquire the authorization to use groundwater on a portion or all of its acres or temporarily increase its current certified groundwater use for the upcoming growing season; and (iii) a non-profit organization or a governmental entity may temporarily remove groundwater from use on acres in the District for the upcoming growing season.

B.7.1.4 “Seasonal permission” means the temporary authorization to use groundwater that may be conveyed, acquired, or removed for the upcoming growing season through the Program.

B.7.1.5 A producer “participating as a seller” means a producer that intends to convey seasonal permissions through the Program. A producer

“participating as a buyer” means a producer that intends to acquire seasonal permissions through the Program. A “streamflow buyer” means a non-profit organization or a governmental entity that participates in the Program to temporarily remove groundwater from use for the purpose of increasing streamflow.

- B.7.1.6 “Rules & Regulations” means the most recently approved version of the CPNRD document titled “Rules and Regulations for Groundwater Use in Fully and Over Appropriated Areas”.
- B.7.1.7 “Sector” means a region within the CPNRD either in the Platte Basin or in the Loup Basin. “Platte Sector” means a Sector within the Platte Basin. “Loup Sector” means a Sector within the Loup Basin.
- B.7.1.8 A “location” means irrigated acres within a Sector for which a producer intends to convey a seasonal permission through the Program, or acres within a Sector for which a producer intends to acquire a seasonal permission through the Program, or irrigated acres within a Sector from which a streamflow buyer intends to remove groundwater from use.
- B.7.1.9 “X-Coordinates” mean the x-coordinates in the Universal Transverse Mercator (“UTM”) system that are one mile apart, starting at the western border as “Mile Zero”.
- B.7.1.10 “Zone” means the combination of a particular Sector and an X-Coordinate.
- B.7.1.11 “Waterbank Worksheet” means a form provided by the District for purposes of applying to participate in the Program.
- B.7.1.12 “Pre-approval” means the process, as described below in Section B.7.3, by which a producer or streamflow buyer requests permission from the District to participate in the Program for specific locations. “Pre-approved” means that the producer or streamflow buyer has obtained permission from the District for participation in the Program for specific locations.
- B.7.1.13 “Bid ID” means an identifier for a location that may be bid through the Program. The bid ID is provided by the CPNRD upon pre-approval.
- B.7.1.14 A “bid” means a price per acre associated with a particular location that has a unique bid ID submitted by a producer participating in the Program.
- B.7.1.15 “Bid to sell” means a bid submitted by a producer that is participating as a seller in the Program. A bid to sell must satisfy the conditions in Section B.7.3.5.3.
- B.7.1.16 “Bid to buy” means a bid submitted by a producer that is participating as a buyer in the Program. A bid to buy must satisfy the conditions in Section B.7.3.5.2.
- B.7.1.17 “Bid Window” is the period of time, as announced by the CPNRD, during which producers and streamflow buyers that have received pre-approval may submit bids.

- B.7.1.18 “Streamflow Unit” is a measure of groundwater in acre-feet adjusted by the depletion percentage as modeled by the Platte River Cooperative Hydrology (COHYST).
- B.7.1.19 “Bid schedule” means one or more prices and quantities submitted by a streamflow buyer participating in the Program. A bid schedule must satisfy the conditions in Rule B.7.4.7.
- B.7.1.20 “Trade price” means a price for a Zone or group of adjacent or consecutive Zones for which the Streamflow Units from bids to buy are equal to the Streamflow Units from bids to sell.

B.7.2 General

- B.7.2.1 Through the Program, producers may participate as buyers or sellers, to acquire or convey a seasonal permission to use groundwater. Streamflow buyers may also participate to remove groundwater from use for the purpose of increasing streamflow.
- B.7.2.2 Producers and streamflow buyers that wish to participate in the Program must obtain pre-approval from the CPNRD.
- B.7.2.3 Producers and streamflow buyers that are granted pre-approval may submit bids during the Bid Window. Once the Bid Window has closed and the bids are evaluated, producers and streamflow buyers are notified whether they have winning bids.
- B.7.2.4 A producer may not use the Program to transfer a certified groundwater use on irrigated acres that it owns to other acres under the same ownership. If there is a mismatch after such transfer is approved by the CPNRD (i.e., the producer has excess or is short certified groundwater use), the producer can sell or buy through the Program the amount that it has in excess or for which it is short.
- B.7.2.5 A producer may not use the Program to transfer a certified groundwater use on irrigated acres in the Platte Basin to acres in the Loup Basin or vice-versa. The Program is run concurrently but separately for the Platte Basin and the Loup Basin.
- B.7.2.6 The District may, in its sole discretion, determine the number of participant openings to the Program on an annual basis. This number of participant openings shall then be filled according to the pre-approval process described in the next section.

B.7.3 Pre-Approval Process

- B.7.3.1 Each producer shall designate one authorized representative responsible for all aspects of its participation in this Program. In the case of an individual landowner, such authorized representative can be himself or

- herself.
- B.7.3.2 Each producer seeks pre-approval by having its authorized representative attend a pre-approval meeting with CPNRD staff, by providing all information required by the Waterbank Worksheet, and by responding satisfactorily to any request for additional information from the CPNRD.
 - B.7.3.3 Each producer has the sole responsibility to contact the CPNRD directly to arrange a pre-approval meeting with CPNRD Staff no later than three (3) weeks prior to the opening of the Bid Window.
 - B.7.3.4 At the pre-approval meeting, the authorized representative will complete the Waterbank Worksheet for each location that the producer intends to bid in the Program. For each location, the authorized representative must provide:
 - B.7.3.4.1 Contact information for the producer;
 - B.7.3.4.2 Whether the producer intends to convey a seasonal permission for that location or to acquire a seasonal permission for that location;
 - B.7.3.4.3 Information regarding the location:
 - B.7.3.4.3.a Legal description of location including county and basin of influence
 - B.7.3.4.3.b Contact information for landowner
 - B.7.3.4.4 If the producer is not the landowner, the CPNRD will require notarized documentation that the landowner agrees to the purchase or conveyance of a seasonal permission at the location.
 - B.7.3.5 By the authorized representative signing the Waterbank Worksheet for a location, the producer makes the certifications and commitments detailed in the following paragraphs:
 - B.7.3.5.1 Each producer, whether participating as a buyer or seller:
 - B.7.3.5.1.a Agrees that the Program does not conflict with or challenge the lawfulness of all mandates and restrictions of the Rules & Regulations;
 - B.7.3.5.1.b Accepts and agrees to abide by all the Rules of the Groundwater Exchange Program, as these Rules are reviewed and approved by the CPNRD Board of Directors ("Board").
 - B.7.3.5.1.c Agrees that any bid submitted during the Bid Window will remain binding until forty-five (45) calendar days after the close of the Bid Window.
 - B.7.3.5.1.d Certifies that all information provided in each Waterbank Worksheet submitted is true, complete and accurate for each location.

B.7.3.5.2 Each producer participating as a buyer:

B.7.3.5.2.a Certifies that if the location is part of the wetlands, the producer has obtained certification or other appropriate authorization from the Natural Resources Conservation Service that the location has been deemed eligible for conversion to irrigated land. The producer agrees to provide to the CPNRD documentation to that effect upon request.

B.7.3.5.2.b Agrees that:

- The producer's bid through the Program shall not be construed as a water right under state or federal law or comparable property right.
- The producer's bid through the Program is solely for the purpose of acquiring a seasonal permission and it is necessary to apply separately to the District for the permanent transfer of a water right.
- A bid through the Program is not a permit to construct a well and it is necessary to apply separately to the District for a well permit prior to drill a new well.

B.7.3.5.2.c Agrees to accept any additional conditions associated with the location, as specified in the Waterbank Worksheet by the CPNRD.

B.7.3.5.2.d Agrees that, should it have a winning bid for a location:

- A producer shall accept the award and pay the amount determined to the CPNRD by check no later than fifteen (15) calendar days after receiving notification that the producer has a winning bid, provided, however, that the number of acres for which a seasonal permission is granted at such location meets or exceeds the minimum quantity of acres that the producer specified for this location.
- A producer shall, without penalty, have the option of whether to accept the award and pay the amount determined if the number of acres for which a seasonal permission is granted at such location falls short of the minimum quantity of acres that the producer specified for this location.
- A producer that accepts the award but fails to pay the amount determined: (i) shall forfeit the seasonal permission awarded through the Program; and (ii) may be subject to additional penalties, such as the inability to participate in

future events under the Program, as determined by the CPNRD.

B.7.3.5.3 Each producer participating as a seller agrees that, should it have a winning bid for a location:

B.7.3.5.3.a Acres at the location cannot be irrigated and no irrigation runoff is allowed onto those acres.

B.7.3.5.3.b Acres at the location may be inspected and any violations may result in penalties levied by the CPNRD.

B.7.3.5.3.c Deep-rooted vegetation (example: alfalfa) and various grasses cannot be planted at the location if the location is in a sub-irrigated area.

B.7.3.5.3.d Any amount associated with a winning bid owed to the producer will be provided by check and sent to the address provided on the Waterbank Worksheet. Such payment:

- must be approved by the Board;
- shall be sent thirty (30) days after the producer receives notification of its winning bid or when approval from the Board is obtained, whichever comes last in time.

B.7.3.6 The CPNRD grants pre-approval for a producer's participation at a given location when:

B.7.3.6.1 The producer has provided all information required for a Complete waterbank worksheet at that location;

B.7.3.6.2 The producer has signed the Waterbank Worksheet and thereby has agreed to all conditions provided above and any additional conditions set by the CPNRD;

B.7.3.6.3 The producer is in good standing with the CPNRD with respect to all CPNRD rules and regulations that apply to the producer; and

B.7.3.6.4 The producer has provided any other information the District deems necessary or relevant.

B.7.3.7 A streamflow buyer is also responsible to designate an authorized representative who shall arrange a pre-approval meeting during which he or she will complete the Waterbank Worksheet and provide the CPNRD all information that the CPNRD considers necessary or relevant for the streamflow buyer's participation. Furthermore:

B.7.3.7.1 The streamflow buyer shall make the certifications in Rule 7.3.5.1.

B.7.3.7.2 Should the streamflow buyer have a winning bid for a location,

the streamflow buyer must agree to pay the amount determined to the CPNRD by check no later than fifteen (15) calendar days after receiving notification of a winning bid.

B.7.3.7.3 The CPNRD grants pre-approval for a streamflow buyer's participation at a given location if the conditions of Rule 7.3.5.1 are satisfied.

B.7.3.8 If a producer is not in good standing with the CPNRD with respect to all CPNRD Rules and Regulations that apply to the producer but the producer has otherwise provided all the information and agreements necessary for pre-approval, then the CPNRD may give a conditional approval to the producer. The conditional approval will specify the action required for the producer to be granted pre-approval.

B.7.3.9 Upon pre-approval of a specific location for a specific producer, the CPNRD will provide the producer with a corresponding bid ID. The bid ID must be provided with the bid for a bid to be valid.

B.7.4 Platte Basin - Sectors and Bids

B.7.4.1 This Section B.7.4 describes the Program for the Platte Basin only. Thus, Platte Sectors will be referred to simply as Sectors in this Section.

B.7.4.1.1 Each Sector is identified by the Ground Water Management Area ("GWMA") and by the land characteristic allowing transfers in a given Sector or not.

B.7.4.1.2 The Program identifies the following nine (9) Sectors, which are illustrated on the first map attached and fully incorporated into these rules:

B.7.4.1.2.1 Sector A is the portion of GWMA 2 that overlaps the over-appropriated area

B.7.4.1.2.2 Sector B is GWMA 2

B.7.4.1.2.3 Sector C is the over-appropriated area

B.7.4.1.2.4 Sector D is the portion of GWMA 9 in the Platte Basin

B.7.4.1.2.5 Sector E is the portion of GWMA 12 in the Platte Basin

B.7.4.1.2.6 Sector F is the portion of GWMA 16 in the Platte Basin

B.7.4.1.2.7 Sector G is GWMA 18

B.7.4.1.2.8 Sector H is the portion of GWMA 20 in the Platte Basin

B.7.4.1.2.9 Sector I is any other area within the Platte Basin of the CPNRD that is not in Sectors A through H

- B.7.4.1.3 Each location for which a bid is submitted is identified with the X-Coordinate closest to its centroid. If two X-Coordinates are equally close, the bid will be associated with the X-Coordinate further to the west.
- B.7.4.1.4 A location in Sector A is also either in Sector B or in Sector C. Except for Sector A, no location can be in more than one Sector and thus, each such location is associated with a unique Zone.
- B.7.4.1.5 Producers shall submit bids that include a price per acre, associated with a particular location that has a unique bid ID.
 - B.7.4.1.5.1 A bid to sell consists solely of a price per acre, which represents the lowest amount that the producer is willing to accept to convey its certified groundwater use for one growing season.
 - B.7.4.1.5.2 A bid to buy is a price per acre, which represents the highest amount that the producer is willing to pay to acquire the certified groundwater use for one growing season. It is possible that a producer would have a winning bid for less than the full number of acres associated with the location. Thus a producer that submits a bid to buy may also specify a minimum quantity of acres under which the producer is unwilling to acquire the certified groundwater use for one growing season for that location. If the producer receives a partial award for at least the minimum quantity specified, the producer must accept the award. No award is expected to be made to a producer with a bid to buy for less than the minimum quantity specified, but if such award were made, the producer could, without penalty, opt not to accept the award and not to pay the amount determined.
 - B.7.4.1.5.3 No additional instructions or contingencies can be provided in a bid.
- B.7.4.1.6 For purposes of evaluation, bids will be converted from a price per acre to a price per acre-foot adjusted for the depletion percentage. A bid to sell will be rounded down to the nearest cent and a bid to buy will be rounded up to the nearest cent. In the context of the Program, the amount of water may be referred to as a number of Streamflow Units and the price may be referred to as a price per Streamflow Unit.
- B.7.4.1.7 A streamflow buyer shall submit a bid schedule consisting of:

- B.7.4.1.7.1 An X-Coordinate to the west of which the streamflow buyer **is** willing to buy seasonal permissions;
- B.7.4.1.7.2 A price and a number of Streamflow Units that the streamflow buyer is willing to purchase at that price; and
- B.7.4.1.7.3 Optionally, the streamflow buyer may provide additional prices and associated quantities at which the streamflow buyer is willing to make additional purchases.

B.7.5 Platte Basin - Evaluation and Trade Prices

- B.7.5.1 The District reserves the right to request any necessary or relevant information necessary for bid evaluation from a producer. A producer's failure to provide said information may result in a losing bid.
 - B.7.5.1.1 Winning bids to sell and winning bids to buy are selected to yield the highest value to both buyers and sellers while respecting the following principles:
 - B.7.5.1.1.1 No Adverse Effect on the Stream. At any X-Coordinate on the river, the number of Streamflow Units bought and sold must either leave streamflow the same or improve streamflow to the river.
 - B.7.5.1.1.2 No Movement West. In each Sector, the number of Streamflow Units sold in the Sector west of an X-Coordinate must equal to or exceed the number of Streamflow Units bought west of that X-Coordinate.
 - B.7.5.1.1.3 No Transfers In To Sectors A-H. In each of Sectors A through H, the number of Streamflow Units sold in the Sector must be equal to or exceed the number of Streamflow Units bought.
- B.7.5.2. The trade price is determined for a Zone or group of Zones with adjacent or consecutive X-Coordinates, and at that price, the quantity of Streamflow Units for bids to buy is equal to the quantity of Streamflow Units for bids to sell.
 - B.7.5.2.1 Bids to buy are accepted starting with the highest bid. All accepted bids to buy are equal to or greater than the trade price so that producers that buy through the Program pay no more than the price they bid.
 - B.7.5.2.2 Bids to sell are accepted starting with the lowest bid. All accepted bids to sell are equal to or less than the trade price so that producers that sell through the Program receive at least the price they bid.

B.7.5.2.3 If there is more than one possible trade price for a Zone or a group of Zones that satisfies the requirements of this paragraph, any trade price satisfying these requirements may be selected. However, to the extent possible, the trade price will be selected so that no bid to buy is exactly equal to the trade price and no bid to sell is exactly equal to the trade price.

B.7.5.3 A producer with a bid to sell that is partially filled at a location must accept the award.

B.7.6 Loup Basin - Sectors and Bids

B.7.6.1 This Section B.7.6 describes the Program for the Loup Basin only. Thus, Loup Sectors will be referred to simply as Sectors in this Section.

B.7.6.2 Each Sector is identified by the GWMA and by the land characteristic allowing transfers in a given Sector or not.

B.7.6.3 The Program identifies the following five (5) Sectors, which are illustrated on the second map attached and fully incorporated into these rules:

B.7.6.3.1 Sector J is the portion of GWMA 9 in the Loup Basin

B.7.6.3.2 Sector K is the portion of GWMA 12 in the Loup Basin

B.7.6.3.3 Sector L is the portion of GWMA 16 in the Loup Basin

B.7.6.3.4 Sector M is the portion of GWMA 20 in the Platte Basin

B.7.6.3.5 Sector N is any other area within the Loup Basin of the CPNRD that is not in Sectors J through M

B.7.6.4 Each location is associated with a unique Zone.

B.7.6.5 Each location for which a bid is submitted is identified with the X-Coordinate closest to its centroid. If two X-Coordinates are equally close, the bid will be associated with the X-Coordinate further to the west.

B.7.6.6 Producers shall submit bids that include a price per acre, associated with a particular location that has a unique bid ID.

B.7.6.6.1 A bid to sell consists solely of a price per acre, which represents the lowest amount that the producer is willing to accept to convey its certified groundwater use for one growing season.

B.7.6.6.2 A bid to buy is a price per acre, which represents the highest amount that the producer is willing to pay to acquire the certified groundwater use for one growing season. It is possible that a producer would have a winning bid for less than the full number of acres associated with the location. Thus a producer that submits a bid to buy may also specify a minimum quantity of acres under which the producer is unwilling to acquire the certified groundwater use for one growing season for that location. If the producer receives a partial award for at least the minimum quantity specified, the producer must accept the award. No award is expected to be made to a producer with a bid to buy for less than the minimum quantity specified but if

such award were made, the producer could, without penalty, opt not to accept the award and not to pay the amount determined.

B.7.6.6.3 No additional instructions or contingencies can be provided in a bid.

B.7.6.7 For purposes of evaluation, bids will be converted from a price per acre to a price per acre-foot adjusted for the depletion percentage. A bid to sell will be rounded down to the nearest cent and a bid to buy will be rounded up to the nearest cent. In the context of the Program, the amount of water may be referred to as a number of Streamflow Units and the price may be referred to as a price per Streamflow Unit.

B.7.6.8 A streamflow buyer shall submit a bid schedule consisting of:

B.7.6.8.1 An X-Coordinate to the west of which the streamflow buyer is willing to buy seasonal permissions;

B.7.6.8.2 A price and a number of Streamflow Units that the streamflow buyer is willing to purchase at that price; and

B.7.6.8.3 Optionally, the streamflow buyer may provide additional prices and associated quantities at which the streamflow buyer is willing to make additional purchases.

B.7.7 Loup Basin - Evaluation and Trade Prices

B.7.7.1 The District reserves the right to request any necessary or relevant information necessary for bid evaluation from a producer. A producer's failure to provide said information may result in a losing bid.

B.7.7.2 Winning bids to sell and winning bids to buy are selected to yield the highest value to both buyers and sellers while respecting the following principles:

B.7.7.2.1 No Adverse Effect on the Stream. At any X-Coordinate on the river, the number of Streamflow Units bought and sold must either leave streamflow the same or improve streamflow to the river.

B.7.7.2.2 No Movement West. In each Sector, the number of Streamflow Units sold in the Sector west of an X-Coordinate must equal to or exceed the number of Streamflow Units bought west of that X-Coordinate.

B.7.7.2.3 No Transfers In To Sectors J-M. In each of Sectors J through M, the number of Streamflow Units sold in the Sector must be equal to or exceed the number of Streamflow Units bought.

B.7.7.3 The trade price is determined for a Zone or group of Zones with adjacent or consecutive X-Coordinates, and at that price, the quantity of Streamflow Units for bids to buy is equal to the quantity of Streamflow Units for bids to sell.

B.7.7.3.1 Bids to buy are accepted starting with the highest bid. All accepted bids to buy are equal to or greater than the trade price so that

- producers that buy through the Program pay no more than the price they bid.
- B.7.7.3.2 Bids to sell are accepted starting with the lowest bid. All accepted bids to sell are equal to or less than the trade price so that producers that sell through the Program receive at least the price they bid.
- B.7.7.3.3 If there is more than one possible trade price for a Zone or a group of Zones that satisfies the requirements of this paragraph, any trade price satisfying these requirements may be selected. However, to the extent possible, the trade price will be selected so that no bid to buy is exactly equal to the trade price and no bid to sell is exactly equal to the trade price.
- B.7.7.4 A producer with a bid to sell that is partially filled at a location must accept the award.

B7.8 Bid Submission

- B7.8.1 A bid must be electronically submitted via the Program website. Producers that have been granted pre-approval will be provided with instructions for an alternative bid submission method in case of difficulties with the electronic submission to the website.
- B7.8.2 A bid must be submitted during the Bid Window. No late bids will be accepted under any circumstances.
- B7.8.3 A bid is a commitment to buy or sell, as the case may be. A bid submitted during the Bid Window will remain binding until forty-five (45) calendar days after the close of the Bid Window.

Section B - Rule 8 **Participation Eligibility and Rules – 30-Year Acreage Reserve Program**

B.8.1 Definitions – Participation Eligibility and Rules – 30-Year Acreage Reserve Program

- B.8.1.1 30-Year Acreage Reserve Program Agreement: shall mean 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.8.1.2 Active Participation: shall mean holding, but not exercising during the designated period, an appropriation right to apply surface water.
- B.8.1.3 Diverter Enrollee: shall mean 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.8.1.4 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.8.1.5 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.8.1.6 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.8.2 Establishment. The Board of Directors hereby creates a 30-Year Acreage Reserve Program.
- B.8.3 Purpose and Intent. The 30-Year Acreage Reserve Program is established for the following purposes:
- B.8.3.1 To allow surface-water appropriators to preserve their surface-water rights while reducing their consumptive use of surface water;
- B.8.3.2 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.8.3.3 To strengthen the District’s working relationship with the Three Canals and Providers;
- B.8.3.4 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.8.3.4.1 Basin-Wide Plan for Joint Integrated Water Resources Management of Over appropriated Portions of the Platte River basin, NE; and
- B.8.3.4.2 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.8.3.5 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.8.3.6 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.8.4 30-Year Acreage Reserve Program Agreements.
- B.8.4.1 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.8.4.2 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.8.4.2.1 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.8.4.2.2 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.8.4.2.3 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.8.4.3 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.8.4.3.1 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.8.4.3.2 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.8.4.3.3 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.8.4.3.4 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.8.5 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.8.6 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.8.7 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:

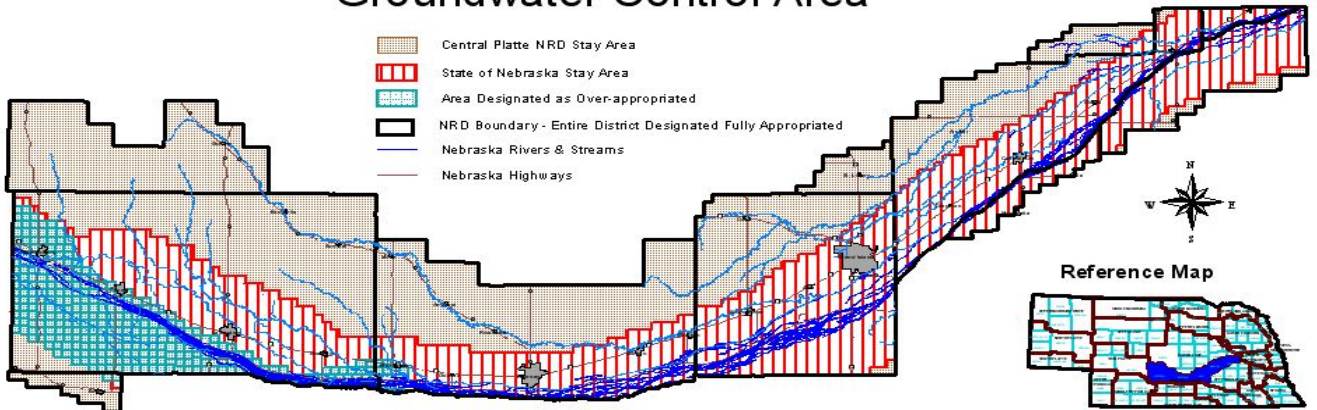
B.8.7.1 Participating Canals/Providers. The Three Canals and Providers shall (1) coordinate communication with and among surface-water diverters who are

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.

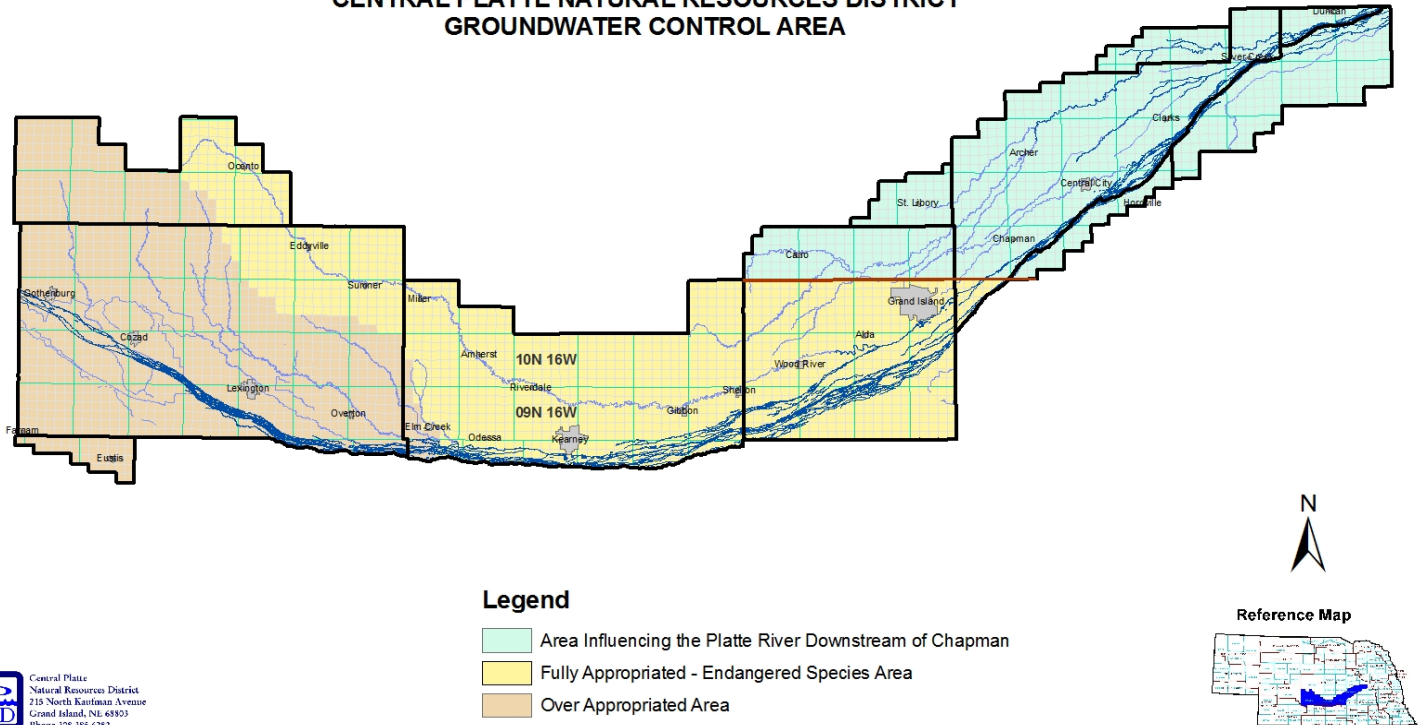
B.8.7.2 District. The District shall (1) facilitate communication between Diverter Enrollees and the Nebraska Department of Natural Resources (“DNR”); (2) report any information to the DNR that is necessary for the DNR to determine that a Diverter Enrollee who has achieved Active Participation does, 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

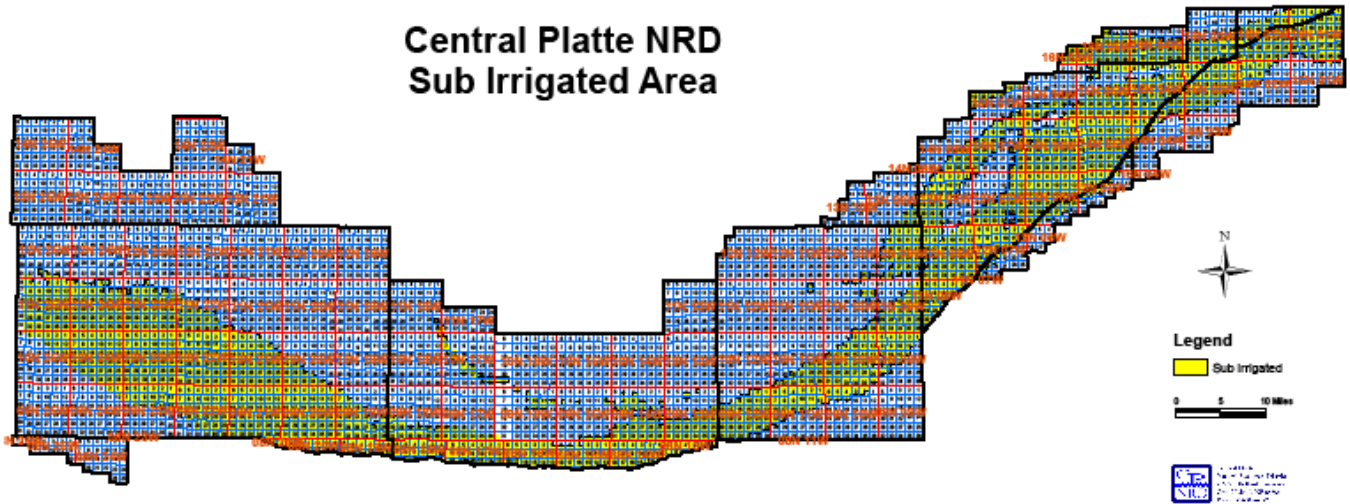


CENTRAL PLATTE NATURAL RESOURCES DISTRICT GROUNDWATER CONTROL AREA



Section B – Attachment B

Central Platte NRD Sub Irrigated Area



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 15.0 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. Because the NRDs do not have the authority to regulate surface water, surface water irrigators are not required to take water samples or monitor water applications.

- C.2.1 All controls for the Phase I area 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. No groundwater shall be withdrawn from any well located within a Phase II Water Quality Management Area for irrigation use on land growing crops not exempted from the Management Program prior to having in place and operational, an approved method of continuous monitoring. Approved methods of continuous monitoring shall include:
 - C.2.7.1 Request and obtaining 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, or
 - C.2.7.2 Installation of an approved flow meter in order to continuously measure the quantity of groundwater pumped during each year. Any well withdrawing irrigation water for use on land growing corn, sorghum or potatoes which does not have in place and operational, an approved method of continuous monitoring (Method C.2.7.1.1 or Method C.2.7.1.2 above) shall be in violation and deemed to be an illegal well.
- 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 Management Area 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 Management Area, 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 the Management Area must (1) meet the specifications for flow meters adopted by the Board (attached hereto as Section D-Appendix A and incorporated herein by reference) and (2) be installed according to the manufacturer's specifications. Flow meters installed before the specifications are adopted by the Board which do not comply with such specifications shall be inspected by a representative of the District and approved for use by the District if such meters are 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 the Management Area certify such installation on a form supplied by the District.
- C.2.9.2 The 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 Submission by each operator on or before March 31 of an annual report to the District on forms furnished by or approved 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, and number of wells if greater than 1 well, total unregulated crop acres and crop 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 10 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 or sludge applied.
- C.2.10.9 The crop to be grown and the per acre expected yield used as the basis for determining nitrogen needs 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 Submission by each operator on the same annual report to the District due March 31 showing 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, and
 - C.2.11.4 certification by the operator.

Section C – Rule 3 **PHASE III AREAS:**

Average nitrate level 15.1 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 II area will apply to Phase III areas.
- C.3.2 Spring applications (after March 1) of commercial nitrogen fertilizer shall be either:
 - C.3.2.1 applied in split (pre-plant or pre-emergent/post-emergent) applications with no more than 50% applied as pre-plant or pre-emergent, or

C.3.2.2 applied with a District approved inhibitor at the manufacture's recommended rate, if more than 50% is applied as pre-plant or pre-emergent, and operators shall be required to furnish certification from dealer that inhibitor was used and at recommended rate, unless the total pre-plant application is 80 pounds per acre of actual nitrogen or less, in which case the 50 percent rule above would not apply, or;

C.3.2.3 all applied as side dress post-emergent.

Section C – Rule 4 **PHASE IV AREAS:**

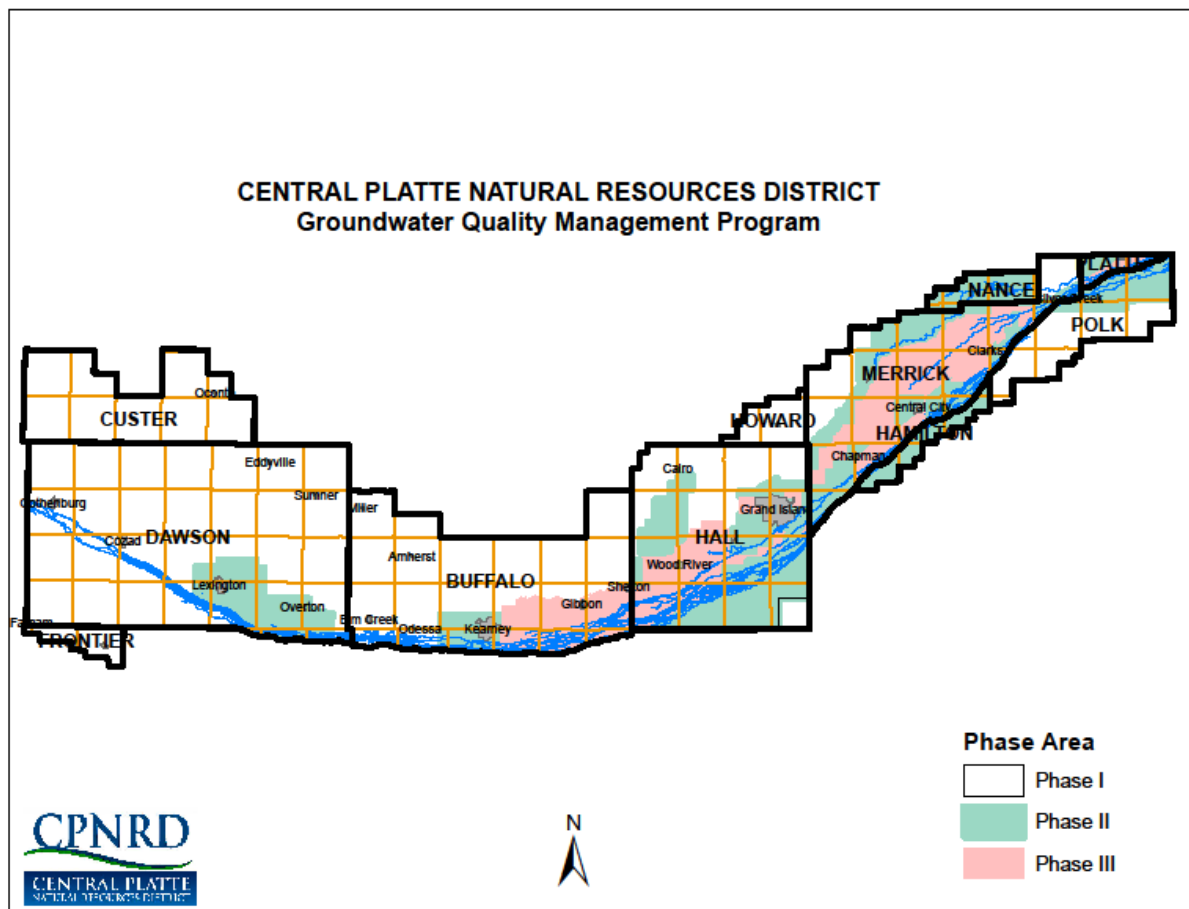
Areas where nitrate levels are not declining at an acceptable rate as determined by the Board of Directors. A determination will be made by reviewing the running 5-year average of a well or set of wells; the severity of the level; and the anticipated time that would be required to reach a level of 10 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 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 SUPPLY (QUANTITY) MANAGEMENT CONTROLS

Section D - Rule 1. CONTROLS – “ROTATION”

D.1.1 Groundwater Supply Management Areas in a Phase 1 Program

D.1.1.2 No reduction in annual irrigated acreage is required.

D.1.2 Groundwater Supply Management Areas in a Phase II Program:

- D.1.2.1 Beginning the first irrigation season following the Board's establishment of a Phase II program and continuing each year thereafter until such time as that management area moves into another phase program, there shall be a percentage reduction in acreage operated under irrigation within the management area. The percentage reduction shall be applied equally to each landowner/operator unit within the management area and shall be one-fourth (1/4) the difference between 100% (of the unit's total developed irrigation acres in the management area) and the "Predicted Stable Rotation Percentage". The percentage reduction and resulting reduced acreage shall be based on irrigated corn production and shall be subject to adjustment by the adopted crop conversion factor for crops other than corn (See Section D – Rule 1.6.2).
- D.1.2.2 Any new irrigation well drilled must be at least 900 feet from any other legal irrigation well not belonging to the groundwater user owning or controlling the land upon which such well is located. The Board may grant a variance from the application of this rule to any groundwater user who demonstrates, to the satisfaction of the Board, that application of such rule would deny the user the reasonable use of groundwater underlying his or her land.
- D.1.2.3 Any person who intends to construct a well shall include on the application for permit to construct a well, and in addition to the information required by 46-659 (2), the acreage and location, by legal description, of any of the lands to be irrigated that were not previously irrigated during any of the last 10 years, the location and owner's name of any other well located within 1320 feet of the well to be constructed, and any other information as the District may require.
- D.1.2.4 A report, signed by each landowner and operator, shall be submitted on or before July 15th of each year following the Board's establishment of a Phase II program, on forms furnished by the District, showing:

- D.1.2.4.1 Total acres developed for irrigation for each farm unit they operate by field and legal description, and by landowner,
 - D.1.2.4.2 The crop to be grown on each field,
 - D.1.2.4.3 The crop conversion factor for each crop,
 - D.1.2.4.4 The adjusted irrigated cropland acreage (crop acres multiplied by the appropriate conversion factors) of lands to be irrigated, by field and total,
 - D.1.2.4.5 The percentage that the total adjusted irrigated cropland acreage (D.1.2.4.4 above) is of the total acres developed for irrigation (D.1.2.4.1 above). (Adjusted acreage divided by total developed acreage).
- D.1.2.5 Any lands which shall be newly developed for irrigation (not previously irrigated during any of the last 10 years) within a supply management area while in a Phase II through V Program shall be considered, for purposes of these controls, a separate operation and unit from all other lands within the supply management area. Such newly developed lands shall be subject, as a separate unit, to the rotation requirements and other controls, irrespective of other lands in the same management area that may be under the same ownership, until such time as that management area moves into another Phase Program, at which time they may be merged, for purposes of these Rules and Regulations, with other lands under the same ownership.

D.1.3 Supply Management Areas in a Phase III Program:

- D.1.3.1 Beginning the first irrigation season following the Board's establishment of a Phase III program and continuing each year thereafter until such time as that management area moves into another phase program, there shall be a percentage reduction in acreage operated under irrigation within the management area. The percentage reduction shall be applied equally to each landowner/operator unit within the management area and shall be one-half (1/2) the difference between 100% (of the unit's total developed irrigation acres in the management area) and the "Predicted Stable Rotation Percentage". The percentage reduction and resulting reduced acreage shall be based on irrigated corn production and shall be subject to adjustment by the adopted crop conversion factor for crops other than corn (See Section D – Rule 1.6.2).
- D.1.3.2 Any new irrigation well drilled must be at least 1200 feet from any other legal irrigation well not belonging to the groundwater user owning or

controlling the land upon which such well is located. The Board may grant a variance from the application of this rule to any groundwater user who demonstrates, to the satisfaction of the Board, that application of such rule would deny the user the reasonable use of groundwater underlying his or her land.

- D.1.3.3 Any person who intends to construct a well shall include on the application for permit to construct a well, and in addition to the information required by 46-659 (2), the acreage and location, by legal description, of any of the lands to be irrigated that were not previously irrigated during any of the last 10 years, the location and owner's name of any other well located within 1320 feet of the well to be constructed, and any other information as the District may require.
- D.1.3.4 A report, signed by each landowner and operator, shall be submitted on or before July 15th of each year following the board's establishment of a Phase III program on forms furnished by the District, showing:
 - D.1.3.4.1 Total acres developed for irrigation for each farm unit they operate, by field and legal description and by landowner,
 - D.1.3.4.2 The crop to be grown on each field,
 - D.1.3.4.3 The crop conversion factor for each crop,
 - D.1.3.4.4 The adjusted irrigated cropland acreage (crop acres multiplied by the appropriate conversion factors) of lands to be irrigated, by field and total,
 - D.1.3.4.5 The percentage that the total adjusted irrigated cropland acreage (D.1.3.4.4 above) is of the total acres developed for irrigation (D.1.3.4.1 above). (Adjusted acreage divided by total developed acreage).
- D.1.3.5 Any lands which shall be newly developed for irrigation (not previously irrigated during any of the last 10 years) within a supply management area while in a Phase II through V Program shall be considered, for purposes of these controls, a separate operation and unit from all other lands within the supply management area. Such newly developed lands shall be subject, as a separate unit, to the rotation requirements and other controls, irrespective of other lands in the same management area that may be under the same ownership, until such time as that management area moves into another Phase Program, at which time they may be merged, for purposes of these Rules and Regulations, with other lands under the same ownership.

D.1.4 Supply Management Areas in a Phase IV Program:

- D.1.4.1 Beginning the first irrigation season following the Board's establishment of a Phase IV program and continuing each year thereafter until such time as that management area moves into another Phase Program, there shall be a percentage reduction in acreage operated under irrigation within the management area. The percentage reduction shall be applied equally to each landowner/operator unit within the management area and shall be three-fourths ($3/4$) the difference between 100% (of the unit's total developed irrigation acres in the management area) and the "Predicted Stable Rotation Percentage". The percentage reduction and resulting reduced acreage shall be based on irrigated corn production and shall be subject to adjustment by the adopted crop conversion factor for crops other than corn (See Section D – Rule 1.6.2).
- D.1.4.2 Any new irrigation well drilled must be at least 1500 feet from any other legal irrigation well not belonging to the groundwater user owning or controlling the land upon which such well is located. The Board may grant a variance from the application of this rule to any groundwater user who demonstrates, to the satisfaction of the Board, that application of such rule would deny the user the reasonable use of groundwater underlying his or her land.
- D.1.4.3 Any person who intends to construct a well shall include on the application for permit to construct a well, and in addition to the information required by 46-659(2), the acreage and location, by legal description, of any of the lands to be irrigated that were not previously irrigated during any of the last 10 years, the location and owner's name of any other well located within 2000 feet of the well to be constructed, and any other information as the District may require.
- D.1.4.4 A report, signed by each landowner and operator, shall be submitted on or before July 15th of each year following the Board's establishment of a Phase IV program, on forms furnished by the District, showing:
- D.1.4.4.1 Total acres developed for irrigation, for each farm unit they operate, by field and legal description, and by landowner,
- D.1.4.4.2 The crop to be grown on each field,
- D.1.4.4.3 The crop conversion factor for each crop,

- D.1.4.4.4 The adjusted irrigated cropland acreage (crop acres multiplied by the appropriate conversion factors) of lands to be irrigated, by field and total,
 - D.1.4.4.5 The percentage that the total adjusted irrigated cropland acreage (D.1.4.4.4 above) is of the total acres developed for irrigation (D.1.4.4.1 above). (Adjusted acreage divided by total developed acreage).
- D.1.4.5 Any lands which shall be newly developed for irrigation (not previously irrigated during any of the last 10 years) within a supply management area while in a Phase II through V Program shall be considered, for purposes of these controls, a separate operation and unit from all other lands within the supply management area. Such newly developed lands shall be subject, as a separate unit to the rotation requirements and other controls, irrespective of other lands in the same management area that may be under the same ownership, until such time as that management area moves into another Phase Program, at which time they may be merged, for purposes of these Rules and Regulations, with other lands under the same ownership.

D.1.5 Supply Management Areas in a Phase V Program:

- D.1.5.1 Beginning the first irrigation season following the Board's establishment of a Phase II program and continuing each year thereafter until such time as that management area moves into another Phase Program, there shall be a percentage reduction in acreage operated under irrigation within the management area. The percentage reduction shall be applied equally to each landowner/operator unit within the management area and shall be sufficient, as determined by the Board, to halt the declines. The percentage reduction and resulting reduced acreage shall be based on irrigated corn production and shall be subject to adjust by the adopted crop conversion factor for crops other than corn (See D.1.6.2).
- D.1.5.2 Any new irrigation well drilled must be at least 1800 feet from any other legal irrigation well not belonging to the groundwater user owning or controlling the land upon which such well is located. The Board may grant a variance from the application of this rule to any groundwater user who demonstrates, to the satisfaction of the Board, that application of such rule would deny the user the reasonable use of groundwater underlying his or her land.
- D.1.5.3 Any person who intends to construct a well shall include on the application for permit to construct a well, and in addition to the information required by 46-659 (2), the acreage and location, by legal

description, of any of the lands to be irrigated that were not previously irrigated during any of the last 10 years, the location and owner's name of any other well located within 2000 feet of the well to be constructed, and any other information as the District may require.

D.1.5.4 A report, signed by each landowner and operator, shall be submitted on or before July 15th of each year following the Board's establishment of a Phase V program, on forms furnished by the District, showing:

D.1.5.4.1 Total acres developed for irrigation, by field and legal description,

D.1.5.4.2 The crop to be grown on each field,

D.1.5.4.3 The crop conversion factor for each crop,

D.1.5.4.4 The adjusted irrigated cropland acreage (crop acres multiplied by the appropriate conversion factors) of lands to be irrigated, by field and total,

D.1.5.4.5 The percentage that the total adjusted irrigated cropland acreage (D.1.5.4.4 above) is of the total acres developed for irrigation (D.1.5.4.1 above). (Adjusted acreage divided by total developed acreage).

D.1.5.5 Any lands which shall be newly developed for irrigation (not previously irrigated during any of the last 10 years) within a supply management area while in a Phase II through V Program shall be considered, for purposes of these controls, a separate operation and unit from all other lands within the supply management area. Such newly developed lands shall be subject, as a separate unit, to the rotation requirements and other controls, irrespective of other lands in the same management area that may be under the same ownership, until such time as that management area moves into another Phase Program, at which time they may be merged, for purposes of these Rules and Regulations, with other lands under the same owner/operator unit.

D.1.6 Adopted Decline, Rotation and Crop Conversion

The following "maximum acceptable decline", "predicted stable rotation percentage" and "crop conversion factor" is adopted for each supply (quantity) management area. The Board shall review, no less than once every five (5) years, the adopted maximum decline, rotation percentage and crop conversion factors and shall adjust each based upon the best available information whenever the Board determines such adjustment(s) are necessary.

D.1.6.1 Maximum Acceptable Decline and Predicted Stable Rotation Percentage

Management Area	Maximum Acceptable Decline	Stable Rotation Percentage
1	30 feet	80%
2	20 feet	80%
3	20 feet	95%
4	20 feet	100%
5	30 feet	100%
6	30 feet	80%
7	30 feet	80%
8	20 feet	90%
9	25 feet	60%
10	20 feet	75%
11	15 feet	100%
12	25 feet	70%
13	15 feet	80%
14	15 feet	50%
15	15 feet	75%
16	15 feet	90%
17	10 feet	75%
18	10 feet	80%
19	10 feet	100%
20	10 feet	100%
21	20 feet	75%
22	10 feet	100%
23	10 feet	90%
24	20 feet	85%

D.1.6.2 **Crop Conversion Factor**

Crop Type	Water Consumption Conversion Factor
Corn	1.0
Soybeans	0.9
Sorghum	0.85
Wheat	0.9
Alfalfa	1.30
Other	1.0

Section D – Rule 2 **OPTIONAL “ALLOCATION CONTROLS”**

The following optional “Allocation” controls may, if (1) requested by both the landowner and operator on forms furnished by the District and (2) approved by the District, be utilized in management areas 15 and 21 to manage those activities having an effect upon groundwater supply (quantity). All lands approved by the Board to utilize “Allocation” as the management program for groundwater supply (quantity) shall remain in the “Allocation” program until and unless (1) requested by both the landowner and operator on forms furnished by the District and (2) approved by the District. Requests for transfer from the “Allocation” controls to the “Rotation” controls will only be considered by the Board if the groundwater user has completed at least one three-year “Allocation” cycle and has not exceeded his total three (3) year allocation (or proportional part thereof if request for transfer of controls is made part way through a subsequent three-year “Allocation” cycle) by more than 20%.

D.2.1 Supply Management Areas in a Phase I Program:

D.2.1.1 No allocation of irrigation pumpage is required.

D.2.2 Supply Management Areas in Phase II, III, IV and V Program:

D.2.2.1 **Certify Irrigated Acres.** On or before the first December 31st following the Boards establishment of a Phase II Program, the number of irrigated acres owned by or under the control of any groundwater user within the management area must be confirmed by him on forms provided by the District. The Board will certify the number of irrigated acres for each groundwater user in accordance with Rule B.2.2.1.2 Failure by a groundwater user to report the number of irrigated acres under his ownership or control shall be grounds for the Board to deny any groundwater allocation to such user.

D.2.2.1.1 Nothing contained herein shall be construed to prohibit the development of new irrigated acres as long as such new development is in conformity with these rules and regulations.

D.2.2.1.2 The number of irrigated acres shall be determined by the Board after considering the following criteria:

- (i) Local ASCS records, if available.
- (ii) County Assessors records, if available.
- (iii) Aerial Photographs.
- (iv) Any relevant information provided by the groundwater user.
- (v) Any relevant information presented by representatives of the District

D.2.3 Well Registration and Certification

D.2.3.1 Prior to January 1st of the year immediately following the Board's establishment of a Phase II Program, each groundwater user must register each well within the management area on forms provided by the District. This requirement is in addition to any requirements imposed by the State of Nebraska.

D.2.3.2 Failure by the groundwater user to register each of the wells under his control may, at the option of the Board, result in the issuance of a cease and desist order by the District preventing the use of such well.

D.2.4 Flow Meters. No groundwater shall be withdrawn from any well located within the management area for use on land approved for the "Allocation" Program prior to the installation of a flow meter. Any flow meter installed on any such well within the management area must (1) meet the specifications for flow meters adopted by the Board (attached hereto as Appendix A and incorporated herein by reference) and (2) be installed according to the manufacturer's specifications. Flow meters installed before the specifications are adopted by the Board which do not comply with such specifications shall be inspected by a representative of the District and approved for use by the District if such meters are accurate. A well which has no flow meter or which is equipped with a flow meter that does not comply with this rule will not receive a water allocation at any time allocations are established. The District will maintain a list of flow meters which are known to meet District specifications.

D.2.4.1 All groundwater users shall within 30 days of the installation of a new or different flow meter on any well located within the management area certify such installation and beginning reading on a form supplied by the District.

D.2.4.1.1 Each groundwater user within the management area shall take the final flow meter reading for every flow meter under his ownership or control and report the same to the District by December 31 of each year. The District will read flow meters periodically on a random basis throughout the District as a method of verifying that flow meter readings are being properly reported.

D.2.4.1.2 If any groundwater user fails to report by December 31 the meter reading for any flow meter under his ownership or control as required by paragraph ©, the District staff shall read the same at a charge to the groundwater user of \$25 and mileage both ways.

- D.2.4.1.3 The District will provide the irrigator with a record of his water use at the end of each irrigation season including the remaining balance of his allocation.
- D.2.4.1.4 Any groundwater user who willfully damages, alters, manipulates or adjusts, or in any other manner interferes with or tampers with a flow meter or procures any other person to do so for the purpose of obtaining additional water or preventing an accurate account of water used shall be subject to forfeiture of allocation upon such terms and conditions as the Board deems just.
- D.2.4.1.5 The District staff shall periodically check flow meters on a random basis for reading and proper operation.
- D.2.4.1.6 All flow meters shall be sealed by the District staff. The District will notify the groundwater user in advance that it intends to enter upon his land for such purposes. No seal shall be removed without prior approval of the District staff. Any person who removes any seal from any flow meter within the management area without such prior approval shall be subject to the provisions of rule
- D.2.4.1.7 No flow meter shall be removed from the groundwater user's irrigation system for any purpose during the irrigation season without prior approval of the District staff. When flow meters are removed for servicing or replacement, records of the flow meter reading shall be kept.
- D.2.4.1.8 Any malfunctioning flow meter must be reported to the District office at Grand Island, Nebraska, within twenty-four hours after discovery. During the malfunctioning period, a "loaner" meter from the District, if available, shall be used to determine water consumption. If no such meter is available, any other method of determining water consumption approved by the Board may be utilized. At the request of the groundwater user, the District will make arrangements for the repairs, service and testing necessary, all at the groundwater user's expense. The District shall re-certify all flow meters following repairs or recalibration.
- D.2.4.1.9 The Board may grant a variance from the application or any provision of this rule to any groundwater user who demonstrates to the satisfaction of the Board that such user is unable to comply with any such rule, that such inability is caused by circumstances beyond the control of the

groundwater user, and that failure to grant such a variance will work a severe hardship on such user.

D.2.5 Allocation. Allocation of groundwater shall become effective on March 1st of the year following the Board's establishment of a Phase II Program, and shall be for a three-year period. A new allocation shall be set at the end of each three-year period for each following three-year period. The following rules shall apply with respect to allocation.

- D.2.5.1 Each certified irrigated acre shall be entitled to fifteen acre inches of groundwater per year, with a total three-year allocation of forty-five acre inches per certified irrigated acre except as provided in (b) below. More than fifteen inches may be used in one year, but in no event will more than forty-five inches be used in a three year period except as provided in D.2.2.4.3 and D.2.2.4.4
- D.2.5.2 In the event that the NRD(s) immediately adjacent to the management area have in place an Allocation Program in amount(s) different than (D.2.2.4.1) above, the District may adopt the allocation amounts of that adjoining District's program.
- D.2.5.3 In the event that more than the three (3) year allocation of acre inches are needed in a three-year period, then a groundwater user may borrow up to three inches per year per certified irrigated acre additional groundwater from the next three-year allocation at the rate of twice the actual amount borrowed.
- D.2.5.4 In the event that a groundwater user does not use his entire three (3) year allocation of acre inches for the three-year period, the groundwater user may accumulate such unused amount for the next three-year allocation, up to a maximum of fifteen acre inches.
- D.2.5.5 Prior to the expiration of the initial first three-year allocation, the Board shall determine subsequent three-year allocation on the basis of the information that it has accumulated with respect to the rate of decline, average annual rainfall over the period and increased irrigation.
- D.2.5.6 The Board shall consider individual hardship cases and situations not covered by those rules and regulations on an individual basis. Such cases shall be decided on equitable

principles and shall serve as precedent for other cases of similar nature.

- D.2.5.7 Any groundwater user who installs a new well within the management area shall receive a prorated allocation for the remainder of the three-year period based on the number of irrigation season days remaining in the three year period after installation. As new development continues, the allocation will have to be reduced proportionately, if the goals are not met.

**SECTION D - APPENDIX A
SPECIFICATION FOR SELECTION, INSTALLATION,
AND MAINTENANCE OF WATER FLOW METERS**

D.A.1 Technical Specifications for Selection of Flow Meters. The following specifications pertain to water flow meters installed in irrigation pipelines and utilized for administration of a groundwater allocation program.

D.A.1.1 All flow meters shall meet American Water Works Association standards C704-70 as well as other technical specifications stated herein. In case of conflict, the specifications herein shall apply.

D.A.1.2 Meters shall be of the velocity propeller type, and made of noncorrosive materials. The propeller shall rotate on a minimum of two bearing. Bearings shall be made of stainless steel or equivalent noncorrosive material. The propeller should have a diameter not less than 70% of the meter size. With flows of less than 500 gallons per minute, meters with small propellers may not be accurate.

D.A.1.3 The meter registry shall have a visual, volume recording totalizer which shall record in acre inches or gallons. (Acre inches is recommended over gallons.) The registry shall be adequately protected from the elements. The totalizer shall have sufficient capacity to record the quantity of water diverted from each well or combination of sources for multiple well installation during the period of one year. The totalizer shall be direct reading and the multiplier shall be clearly indicated. The meter shall also have a rate of flow indicator showing:

D.A.1.3.1 Instantaneous flow in gallons per minute (GPM), or

D.A.1.3.2 A sweep hand indicator from which rate of flow can be determined by timing

D.A.1.3.3 The registry shall be provided with a method for sealing with a wire or lead seal to prevent unauthorized tampering or removal.

D.A.1.3.4 The meter totalizer shall have a rated accuracy of plus or minus two percent of actual flow for all rates of flow within the range of flow for which the meter is designed when installed in accordance with the manufacturer's specifications. The meter used shall be capable of

accurately registering the expected operating range of discharge.

D.A.1.3.5 A meter shall have a pressure rating to fit the expected application and shall be used only within its designed pressure range.

D.A.1.3.6 The meter size, serial number and direction of flow shall be clearly stamped on the body of the meter. The inside pipe diameter for which the meter has been calibrated shall be clearly shown on the meter to the nearest one-thousandth (0.001) of an inch.

D.A.2 Standard for Flow Meter Installation.

D.A.2.1 The meter shall be installed in accordance with the manufacturer's specifications and in such a manner that there shall be a full pipe flow of water at all times while water is being pumped. Full pipe flow may be obtained by using butterfly valves or by raising the pipe beyond the meter to a point above the level of the meter.

D.A.2.2 The meter shall be placed in the pipe not less than five pipe diameters downstream from any valves, elbows or other obstructions which might create a turbulent or jetting flow, or as otherwise recommended by the manufacturer. There shall also be at least one pipe diameter of unobstructed flow on the downstream side of the meter. Straightening vanes shall be installed in the pipe in the manner recommended by the manufacturer of the meter, if the above conditions cannot be met.

D.A.2.3 It is recommended that provisions be made for future testing of meters including such provisions as;

D.A.2.3.1 Using a uniform or standard weld on saddle mount meter to allow for easy removal and interchange of meters;

D.A.2.3.2 An open discharge pipe which would allow installing a testing meter; or

D.A.2.3.3 Any other means which would permit the easy installation of a testing meter or other electronic measuring devices.

D.A.2.4 A single meter may be installed in such a manner as to measure the combined flow from two or more wells.

D.A.2.5 The meter propeller shaft shall be positioned parallel to the pipe and aligned with the center line of the pipe.

D.A.3 Recommended Operation and Maintenance of Flow Meters.

D.A.3.1 Meters should be kept clear of debris, vegetative growth or any other material which could impede proper operation of the meter.

D.A.3.2 Meters should be stored in such a manner that will prevent freezing or damage by rodents and livestock.

SECTION E

VIOLATIONS

SECTION E– RULE 1 General.

- E.1 The District shall enforce the provisions of the Groundwater Management and Protection Act, and all rules and regulations adopted pursuant thereto by the issuance of cease and desist orders in accordance with the procedure hereinafter specified and by bringing appropriate actions in the district court of the county in which any violations occur for enforcement of such orders. Cease and desist orders may be issued for any violation of the District's Rules & Regulations including but not limited to the following:
- E.1.1 Operation of an irrigation system in a manner which allows for improper groundwater irrigation run-off.
 - E.1.2 Construction or operation of an illegal well as defined in these rules and regulations.
 - E.1.3 Operation of an irrigation system in a quantity management area in non-compliance with the rotational or allocational use of groundwater adopted by the Board of Directors.
 - E.1.4 Operation of a cropping system in a designated quality management area in violation of the best management practices adopted by the Board of Directors.
 - E.1.5 Operation of a cropping system in a designated quality management area without the appropriate certification of completion of the education programs required by the Board of Directors.
 - E.1.6 Operation of a cropping system in a designated quality or quantity management area without submitting such reports or forms as may be required by the Board of Directors as part of the District's Groundwater Management Program.
 - E.1.7 Failure to certify irrigated acres.
 - E.1.8 Expanding irrigated acres or other uses of groundwater without proper offsets.
 - E.1.9 Failure to comply with the terms and conditions agreed on through a variance, transfer or irrigation certification.

SECTION E - RULE 2 Complaints.

Any person who can show that the actions of any landowner or operator within the District directly affects him; or the District Compliance Officer; or the Board on its own motion, may file a written complaint. Said complaint shall be filed against a landowner or operator alleging a violation of these rules and regulations. Complaints shall be filed at the office of the District, 215 Kaufman Avenue, Grand Island, Nebraska, 68803, on complaint forms prepared by said District. Forms shall be made available at such office or at such other office or offices as from time to time the Board of Directors shall designate.

SECTION E - RULE 3 Inspections.

In the case of a written complaint alleging a violation of these rules and regulations where the compliance officer determines that an inspection is necessary to determine whether the landowner or operator is, at the time of inspection, or was, at the time complained of, in violation of these rules and regulations, then the land where the alleged violation occurred, or District, State or Federal Records, shall be inspected.

If the alleged violation requires an inspection of the land, the inspector, upon proper identification and after informing the person in control of the land either in person or by certified restricted mail, of the complaint and the inspector's purpose, is authorized to enter upon the land.

Upon completion of the inspection, the inspector shall file a report of his findings in the District office and shall deliver a copy of the complaint and said report to the alleged violator and to the complainant, if other than the compliance officer or the Board, in person, or shall transmit the same by certified restricted mail.

SECTION E - RULE 4 Submission of Inspection Report alleging violation and alleged violator's alternatives.

If the inspector finds in his report that there is reasonable cause to believe that a landowner or operator is, at the time of inspection or was at the time complained of, in violation of these rules and regulations, then said inspector's report, prepared and delivered in accordance with Rule 10 of this section, shall be accompanied by a formal notice of the alternative actions available to the alleged violator. Alternative actions shall be:

- E.4.1 Agree with and accept as true and correct the inspector's findings that the alleged violation has in fact occurred or is occurring; consent in writing to cease and desist from continuing or allowing the reoccurrence of such violation; and if necessary for compliance, shall additionally submit a schedule of compliance in accordance with E-5; or
- E.4.2 Reject the findings of the inspector's report and request in writing that a formal hearing be scheduled and conducted in accordance with the rules and regulations of the District.

The alleged violator shall respond within three (3) days of receipt of notice to him or her to indicate any actions intended.

SECTION E - RULE 5 Schedule of Compliance.

If the alleged violator agrees under Rule E.4.1, he or she shall submit a schedule of compliance which shall provide for the discontinuance and/or non-reoccurrence of the violation. If appropriate, such schedule of compliance shall include the identification and description of all proposed procedures and/or measures to prevent, control, abate, or remediate the violation.

In the case of an irrigation runoff complaint, such procedure or measure may include: limitation of water applied; construction and utilization of runoff collection and/or retention systems such as furrow dikes, reuse pits, or dugouts; or blocking of end rows. The schedule of compliance shall provide for the submission of a work order within ten (10) days (excluding Saturdays, Sundays, and legal holidays) following approval of the plan in the manner hereinafter provided.

The alleged violator shall agree to implement and abide by the terms of such schedule.

SECTION E - RULE 6 Board Action Subsequent to Landowner, Operator, Groundwater User, Complainant, Compliance Officer or Board Member Request for Hearing.

In the case of a written complaint alleging a violation of these rules and regulations where the compliance officer determines that an inspection is not necessary to determine whether or not the landowner, operator or groundwater user is, at the time complained of, in violation of these rules and regulations, or in accordance with Rule E - 4, the Board shall hold a formal hearing when requested by an alleged violator within three (3) days of being notified by District representatives. Notice of the hearing shall be delivered to the alleged violator and the complainant, in person or shall be transmitted to same by certified restricted mail.

If, following a hearing conducted at the request of the alleged violator, the Board determines that the landowner, operator or groundwater user has violated these rules and regulations, it shall adopt an order directing such violator to immediately cease and desist from all activities determined by the Board to be violations, specifying any actions deemed necessary and appropriate. Said order shall be transmitted to the violator in person or by certified restricted mail.

SECTION E - RULE 7 Board Action if Alleged Violator Fails to Respond or Appear.

When an alleged violator has received a cease and desist order from the Board in accordance with Rule E-4 or E-7 of this section and such alleged violator has failed to respond there under, the Board shall:

- a. Review the complaint, and the Inspector's Report, if an inspection was necessary, as well as any other pertinent information;
- b. Further appropriate legal action may be taken by the Board of Directors, on the failure to comply with the cease and desist order, in District Court in the county where the violation occurred. See Section E-Rule 9.

SECTION E - RULE 8 Board Authorization to Initiate Court Action.

The Board may initiate appropriate legal actions in the District Court of the County in which the violation has occurred whenever necessary to enforce any action or orders of the District in accordance with these rules and regulations.

SECTION E – RULE 9 Violations For Groundwater Use Fully and Over Appropriated Areas

E.9.1 No purchase of water from the District's Water Bank can be made to offset a violation of the District's Rules and Regulations for Groundwater Use in Fully and Over Appropriated Areas

E.9.2 Violation Remedy/Penalty Involving Irrigation Restrictions

E.9.2.1 First Violation: If a landowner or tenant violates these Rules and Regulations, the landowner or tenant must come into compliance with the Rules and Regulations by completing a Transfer with the District and, if necessary, providing offsets as required by the Rules and Regulations.

E.9.2.2 Second Violation: If a landowner or tenant violates a second time, offsets for the violation must be provided by the landowner or tenant in an amount of two (2) times the violation in acre feet or irrigated acres, whichever is greater. Any excess above the violation in acre feet to the river will be credited to the Central Platte NRD water bank. The violation is stricken from the landowner's record three (3) years after the date offsets are provided. The violation will be noted on the tenant's record and will be stricken from the records three years after the date offsets are provided. Annual FSA records must be provided until the violation is stricken from the record.

E.9.2.3 Third Violation: If a landowner or tenant violates a third time, or any thereafter, the landowner or tenant must provide offsets at four (4) times the violation in acre feet or irrigated acres, whichever is greater. Any excess above the violation in acre feet to the river will be credited to the Central Platte NRD water bank. Annual FSA records must be provided until the violation is stricken from the record. The tenant/operator of the land in violation will also be held in violation and subject to the provisions in Rule E.9.2.3.a.

E.9.2.3.a Operators (either a tenant or an owner/operator) who have been involved in a third violation, or any thereafter, will be denied any transfers or variances on all land where he/she is the operator for a period of three (3) years following the date of the last violation.

E.9.2.4 Offsets should be provided from the same landowner's property whenever possible.

E.9.3 Violation Procedure Involving Soil Cover Restrictions.

- E.9.3.1 First Violation: If a landowner or tenant violates these Rules and Regulations, the landowner or tenant must come into compliance with the Rules and Regulations by an acre for acre offset of irrigated crop land for each year of violation
- E.9.3.2 Second Violation: If a landowner or tenant violates a second time, offsets of irrigated acres must be provided by the landowner or tenant in an amount of two (2) times the violation in irrigated acres or acre feet, whichever is greater. Any excess above the violation in acre feet to the river will be credited to the Central Platte NRD water bank. The violation is stricken from the landowner's record three (3) years after the date offsets are provided. The violation will be noted on the tenant's record and will be stricken from the records three years after the date offsets are provided. Annual FSA records must be provided until the violation is stricken from the record.
- E.9.3.3 Third Violation: If a landowner or tenant violates a third time, or any thereafter, the landowner or tenant must provide offsets of irrigated acres at four (4) times the violation in irrigated acres or acre feet, whichever is greater. Any excess above the violation in acre feet to the river will be credited to the Central Platte NRD water bank. Annual FSA records must be provided until the violation is stricken from the record. The tenant/operator of the land in violation will also be held in violation and subject to the provisions in Rule E.9.3.a.
 - E.9.3.3.a Operators (either a tenant or an owner/operator) who have been involved in a third violation, or any thereafter, will be denied any transfers or variances on all land where he/she is the operator for a period of three (3) years following the date of the last violation.
- E.9.3.4 Offsets should be provided from the same landowner's property whenever possible.

E.9.4 The Rules and Regulations for Groundwater Use in Fully & Over Appropriated Areas and the above conditional uses will be enforced by the District through the use of cease and desist orders issued in accordance with the provisions of NEB. REV. STAT. §46-707(7) and NEB. REV. STAT. §46-745 (Reissue 2004). In accordance with Neb. Rev. Stat § 46-745 (Reissue 2004), any person who violates a cease and desist order issued by the district shall be subject to a civil penalty of not less than one thousand dollars (\$1,000.00) and not more than five thousand dollars (\$5,000.00) for each day an intentional violation occurs.

SECTION F

RULES AND REGULATIONS PERTAINING TO THE CHEMIGATION PROGRAM

SECTION F – RULE 1 Central Platte Natural Resources District's Rules and Regulations

The Central Platte Natural Resources District has adopted the Nebraska Department of Environmental Quality's Title 195 – Rules and 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, and December 18, 2014.

Section F – RULE 2 Chapter 2 - Permits; When Required; Applications; Authorization by Rule

- 002.05 The name(s) of the certified applicator(s), their certification number and the expiration date of their certification.
- a. The signature of the permit holder and the certified applicator(s) is required on all chemigation applications.

Section F – RULE 3 Chapter 7 - Permits; Fees

As required by Title 195, Chapter 3, Nebraska Department of Environmental Quality, the District shall review applications, conduct inspections, 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.

- A. 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 Environmental Quality.
- B. 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 Environmental Quality.
- C. The annual renewal fee of \$20.00 shall be paid to the District, of which \$2.00 shall be paid to the Department of Environmental Quality.
- D. 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 Environmental Quality.

Section F – RULE 4 **Chapter 9 - Equipment; Standards; Installation**

002.05 The mainline check valve may be moved from site to site, provided there has been modifications made to the systems involved to accept a portable mainline check valve.

Section F – Rule 5 **Chapter 11 - Inspections; Access**

002.04 As the system is required to be started, brought to normal operating pressure, and shut down for the inspection process, a permit holder or applicator is required to be present during inspection by District Staff. Inspectors will not operate any irrigation or chemigation equipment, nor will they open any electrical control box.

002.05 While the inspector may assist in removal and/or reattachment of the vacuum relief valve or injection line check valve, if so requested by the permit holder/applicator, 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.

005.01 A full inspection requiring a start-up and shut-down of the chemigation system will be required a minimum of once every three years.

005.02 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.

005.03 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 to the District or County Court of the county in which the irrigation system is located for an inspection warrant to allow the employee entry onto his/her property to carry out duties under the Nebraska Chemigation Act.

006. In case of permit holders/applicators who chemigate in the areas along District boundaries or who chemigate in two or more District, it may be convenient for the Central Platte Natural Resources District to allow neighboring District Staff to cross over the boundary and inspect systems within the Central Platte Natural Resources District. In such cases, the Central Platte Natural Resources District may consider system inspection by staff of neighboring District as meeting the requirement of the rules and regulations of the Central Platte Natural Resources District provided a reciprocity agreement has been made with the neighboring District concerned. Central Platte Natural Resources District may likewise perform inspections outside the District.
007. 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/applicator. If a third trip is required the fee would increase to \$100.00.

