

82a-711. Permits to appropriate water; standards for approval of use; review of action on application. (a) If a proposed use neither impairs a use under an existing water right nor prejudicially and unreasonably affects the public interest, the chief engineer shall approve all applications for such use made in good faith in proper form which contemplate the utilization of water for beneficial purpose, within reasonable limitations except that the chief engineer shall not approve any application submitted for the proposed use of fresh water in any case where other waters are available for such proposed use and the use thereof is technologically and economically feasible. Otherwise, the chief engineer shall make an order rejecting such application or requiring its modification to conform to the public interest to the end that the highest public benefit and maximum economical development may result from the use of such water.

(b) In ascertaining whether a proposed use will prejudicially and unreasonably affect the public interest, the chief engineer shall take into consideration:

- (1) Established minimum desirable streamflow requirements;
- (2) the area, safe yield and recharge rate of the appropriate water supply;
- (3) the priority of existing claims of all persons to use the water of the appropriate water supply;
- (4) the amount of each claim to use water from the appropriate water supply; and
- (5) all other matters pertaining to such question.

(c) With regard to whether a proposed use will impair a use under an existing water right, impairment shall include the unreasonable raising or lowering of the static water level or the unreasonable increase or decrease of the streamflow or the unreasonable deterioration of the water quality at the water user's point of diversion beyond a reasonable economic limit. Any person aggrieved by any order or decision by the chief engineer relating to that person's application for a permit to appropriate water may petition for review thereof in accordance with the provisions of K.S.A. 2014 Supp. 82a-1901, and amendments thereto.

History: L. 1945, ch. 390, § 11; L. 1957, ch. 539, § 16; L. 1977, ch. 356, § 6; L. 1980, ch. 332, § 3; L. 1986, ch. 392, § 3; L. 1991, ch. 292, § 3; L. 1999, ch. 130, § 5; July 1.