

PUBLIC HEARING NOTICE

The Middle Republican Natural Resources District will hold a public hearing for the purpose of receiving testimony with regard to proposed revisions to the Rules and Regulations for the Ground Water Management Area for the Middle Republican Natural Resources District. The hearing will be at the Middle Republican NRD Office, at 208 Center Avenue, in Curtis Nebraska on October 11, 2022, at 9:00 AM. Written testimony may be sent to the Middle Republican Natural Resources District at PO Box 81, Curtis, Nebraska, 69025. Written testimony will be accepted until the close of the hearing on October 11, 2022. The proposed amendments will be considered at the regular board meeting following the revisions.

The authority for these rules and regulations is the authority granted in the Nebraska Ground Water Management and Protection Act. This amendment to the Rules and Regulations for the Ground Water Management Area clarifies language relating pooling and allocation.

The geographic area is the entire Middle Republican Natural Resources District.

The purpose and geographic area of the Management Area are not changed.

The contents of the rules and regulations has been rearranged to allow for similar rules or impacts to be better aligned. The major changes are listed below:

RULE 6-1 POOLING

- 6-1.1** All Certified Acres under the same Ownership are automatically Pooled and no formal application is required.
- 6-1.2** Pooling shall not be used in a manner to circumvent or to avoid the formal process developed for transfers.
- 6-1.3** Common management through a written agreement is required within a Pool. The agreement shall provide who will operate the Pooled lands.
- 6-1.4** On the Pooling application, which is provided by the District and located (at the district office 208 Center Ave, Curtis, NE 69025), two or more persons may agree to Pool the allocation for the current allocation period from their individual wells on their combined Certified Acres so long as the combined Certified Acres are under Common Management. Each Person must certify, by signing the application form in front of a notary, that each understands that by requesting the right to Pool, each is expected to comply with the District's Rules, Regulations, or controls, in effect or properly adopted at a later date.
- 6-1.5** The information provided to the District in and for the Pooling application shall contain:
 - a. The names, addresses, and notarized signatures of all persons desiring to be in the Pool
 - b. A map showing the location of the certified acres for the land included in the proposed Pool
 - c. Well registration numbers of all wells included in the proposed Pool
 - d. Legal description of the land involved in the proposed Pool
 - e. County in which each well is located
 - f. Certified acres assigned to each well
 - g. Allocation period which for the proposed Pool would be in effect
 - h. Evidence of common management for the acres to be Pooled as provided in Rule 1-1.22.2
 - i. Any other information required by the District that is reasonably necessary to evaluate the proposed Pool

- 6-1.6** The term of the application shall only be within the current allocation period. Pooling agreements shall not cover more than the current allocation period and must be renewed pursuant to Rule 6-1.4 and 6-1.9 if continued into a new allocation period.
- 6-1.7** Pooling agreements shall remain in effect only for the term of the allocation period on the application unless earlier terminated, in writing, by any party in the agreement or by the District due to the lack of Common Management or change in ownership of a well, or for any other reason under these Rules.
- 6-1.8** Certified acres proposed to be Pooled must be within the District and acres outside of the District boundaries shall not be eligible for Pooling.
- 6-1.9** A Pooling application must be submitted to the District between January 1 and March 31 of each year. Pooling applications submitted after March 31 will be denied. The applicant may, however, submit another application the following year, during the period of January 1 and March 31 which will begin the year it has been submitted and not retroactive to include any previous years in the allocation period.
- 6-1.10** Incomplete applications shall be returned to the applicants via certified mail for correction or completion of required information as identified by the District in these Rules and as required on the Pooling application. Examples of an incomplete application include, but are not limited to, the applicant failing to provide evidence of Common Management for all persons that are parties to the Pooling application, not providing the MRNRD with all necessary information as provided in these Rules, including Rules 6-1.5, and lack of all required signatures that are properly verified by a notary. If the applicant does not correct and complete the Pooling application within thirty (30) days of being notified that the previously submitted application is incomplete, the Pooling application shall be considered invalid without further notice required from the District.
- 6-1.11** After receiving a complete application, the District shall deny or approve the application within thirty (30) days. The applicant will receive a letter from the District stating whether the application has been denied or approved. Under no circumstance should the applicant or those other persons involved in the Pooling application consider the Pooling application, or any part thereof, approved until written confirmation from the District has been received stating that the Pooling application has been approved.
- 6-1.12** The District may deny a Pooling application for any reason, including, but not limited to, violations of the District's Rules, Regulations, or controls, or based on the rate of decline or the percentage of acres already developed in a township in areas in which the Pooling will be used. District statistics and Ground Water Level Change maps from the Conservation and Survey Division of the University of Nebraska may be used as a reference of areas of decline.
- 6-1.13** The District may limit or impose conditions upon applicants for Pooling if the use is between sub areas including the area within the Platte with different allocations.
- 6-1.14** Certified acres enrolled in a temporary or permanent irrigation retirement program including Federal, State of Nebraska and locally administered programs are not eligible for Pooling. The District will rely upon program records on file at the District office. The Pooling applicant must ensure that the District has current information regarding such programs.
- 6-1.15** The District shall provide the parties of an approved Pooling application, the revised allocation per Certified Acres for the certified acres covered by the Pooling application. Under no circumstances shall the provision of this information be considered an extension of or an approval of a Pooling application.
- 6-1.16** If an approved Pooling application is expired or terminated, the District shall provide the parties with the remaining allocation based on the water use while the Certified Acres were Pooled. Under no circumstances shall the provision of this information be considered an extension of or an approval of a Pooling application.
- 6-1.17** If the District has found that any person involved in a Pooling application, whether proposed and not yet approved or previously submitted and approved, has violated any of the District's Rules, Regulations, or controls, at any time, the Pooling application will be denied or revoked,

immediately, and the person found to have violated the District's Rules, Regulations, or controls will be subject to either a temporary or permanent inability to Pool at any point in the future.

- 6-1.18** If the District terminates the Pooling agreement for any reason, including, but not limited to violation of the District's Rules, Regulations, or controls, then any revised allocations per Certified Acre will be deleted and a calculation of any remaining allocations shall default to actual water pumped on said well and may result in complete loss of allocation in overuse penalties as provided by these Rules.
- 6-1.19** All of the parties involved in a Pooling agreement that have been found in violation may also be held accountable for such violations and incur penalties depending on District action. The penalties will be applied to the whole Pool on the application.
- 6-1.20** Pooling may be utilized only on land that is certified for groundwater irrigation. Pooling shall not be allowed on acres that are comingled.
- 6-1.21** Before any Pooling application will be approved the Pooling applicant is required to ensure that all persons involved in the proposed Pooling application have a current recertification letter in the District office that includes the location and status of all acres involved.
- 6-1.22** At the end of every allocation period, previously approved Pooling applications shall be automatically terminated. A new Pooling application is required for each and every allocation period.

RULE 9-1 ALLOCATION

9-1.1.2 All owners and operators of groundwater certified acres that receive an allocation are required to sign a receipt of the allocation and an understanding of the groundwater rules and regulations at the beginning of every new allocation period. Any owner or operator that does not sign a receipt will not receive an allocation.

- 9-1.13** OVERUSE ADJUSTMENT - If an operator has exceeded his or her allocation, the allocation for the next allocation period shall be reduced by the number of acre inches, by which said allocation was exceeded in the prior period. An adjustment of 1 inch for every inch over the first 3 inches and 2 inches for every inch over 3 inches of overuse will be applied.
- 9-1.14** OVERUSE ADJUSTMENT - Overuse of the adjusted base allocation during a Compact Call Year shall result in an adjustment of 2 inches for every inch over the first 3 inches and 3 inches for every inch over 3 inches of overuse will be applied. This adjustment will result in a correction to the remaining allocation following the compact call year. This adjustment shall be in addition to the adjustments imposed by Rule 9-1.16 if the compact call year is the last year of an allocation period.

Appendix 1.

GROUNDWATER ALLOCATION FOR IRRIGATION USE:

1.4 Allocation period is January 1, 2023 through December 31, 2027;

1.9 Allocation adjustments based on overuse, irrigation and acres

1.9.1 If an Owner or Operator has exceeded the Owner or Operator's base Groundwater Allocation, the Groundwater Allocation for the next Groundwater Allocation period shall be reduced by the number of acre inches, by which said Groundwater Allocation was exceeded in the prior period. Plus, an adjustment of one(1) inch for every inch over the first three(3) inches and two(2) inches for every inch over three(3) inches of overuse will be applied. These allocation adjustments will be on top of what the producer has already used.

1.9.2 Overuse of the adjusted base allocation during a Compact Call Year shall result in a reduction of two (2) inches for every inch over the first three (3) inches and three (3) inches for every inch over three (3) inches of overuse will be applied. This adjustment will result in a correction to the remaining Groundwater Allocation following the Compact Call Year. This adjustment shall be in addition to the adjustments made by Rule 1.9.1 if the Compact Call Year is the last year of a Groundwater Allocation Period. These allocation adjustments will be on top of what the producer has already used.

1.9.3 If an owner or operator irrigates any non-groundwater certified acres for only one year with their groundwater then their groundwater allocation for that well/field will be adjusted two (2) inches for every acre of non-certified acres irrigated up to 12 acres.

1.9.4 If an owner or operator carries a negative groundwater allocation balance into the next allocation period, that owner or operator will not be allowed to use more than their adjusted allocation for that allocation period. No owner or operator is allowed to have two negative balances in consecutive allocation periods.

This notice is only a general description of the contents of the proposed rules and regulations. The full text of these rules and regulations are available on the district website at mnrnd.org or may be obtained by contacting the Middle Republican NRD, PO Box 81, Curtis NE, 69025 or at 308-367-4281.

Publish for three consecutive weeks. The first publication shall be the week of September 18, 2022, the second publication the week of September 25, 2022 and the last publication shall be **NO LATER THAN October 4, 2022**