

CHAPTER 61-14

GENERAL RULES GOVERNING IRRIGATION

61-14-01. Units of measurement. The standard of measurement for the flow and volume of water shall be established by rule by the state engineer.

61-14-02. Unused water reverts to public. Repealed by S.L. 1963, ch. 417, § 26.

61-14-03. Amount of water for irrigation. In the issuance of a permit to appropriate water for irrigation or in the adjudication of the rights to the use of water for such purpose, the amount of water allowed by the state engineer shall not be in excess of two acre-feet [2466.96 cubic meters] of water per acre [.40 hectare] per year, or the equivalent thereof, delivered on the land, except that during periods of sufficient water supply the state engineer, in accordance with the method of irrigation being used, the type of soil to which the water is to be applied, and other criteria established by the state engineer, may increase the amount of water allowed to three acre-feet per acre [3700.45 cubic meters per .40 hectare], per irrigation season, for a specified period of time which in no event shall be of greater duration than the period of sufficient water supply. Notwithstanding any other provision of this section, the state engineer may not allow more of an amount of water than can be beneficially used.

61-14-04. Water appurtenant to land for irrigation purposes. Repealed by S.L. 1963, ch. 417, § 26.

61-14-05. Change of use or place of diversion. Repealed by S.L. 1977, ch. 569, § 27.

61-14-06. Measuring devices - Unlawful to take water without using. Every ditch owner shall construct and maintain a substantial headgate at the point where the water is diverted and shall construct a measuring device, of a design approved by the state engineer, at the most practicable point or points for measuring and apportioning the water as determined by the state engineer. The state engineer may order the construction of such device by the ditch owner and if not completed within twenty days thereafter the person in charge of the irrigation works, upon instructions from the state engineer, shall refuse to deliver water to such owner. The taking of water by such ditch owner until the construction of such device and the approval thereof by the state engineer shall be unlawful. Such devices shall be so arranged that they can be locked in place, and when locked by the person in charge of the irrigation works or that person's authorized agent, for the measurement or apportionment of water, it shall be unlawful to interfere with, disturb, or change the same, and the use of water through such device after having been interfered with, disturbed, or changed shall be prima facie evidence of the guilt of the person benefited by such interference, disturbance, or change.

61-14-07. Unlawful interference with rights to use of water - Penalty. Any person interfering with or injuring or destroying any headgate, weir, benchmark, well, or other appliance or works for the appropriation, diversion, storage, apportionment, or measurement of water, or for any hydrographic or hydrologic surveys, or who shall interfere with any person engaged in the discharge of duties connected therewith, shall be guilty of a class A misdemeanor, and also shall be liable for the injury or damage resulting from such unlawful act. The state engineer and the person in charge of an irrigation work, and their authorized assistants and agents, may enter upon private property for the performance of their respective duties, but shall do no unnecessary injury thereto.

61-14-08. Unlawful use of water and waste - Penalty. The unauthorized use of water to which another person is entitled, or the willful waste of water to the detriment of another, shall be unlawful. It also shall be unlawful to begin or carry on any construction of works for storing or carrying water until after the issuance of a permit to appropriate such waters. The penalty for any violation of this section is a class A misdemeanor.

61-14-09. Bridges over ditches or canals - Penalty. The owner of any ditch, canal, or other structure for storing or carrying water shall construct and maintain a bridge where the same

crosses any highway or publicly traveled road, in accordance with the requirements of the state agency or political subdivision which has control over the road, or shall reconstruct the road in a substantial manner and in a convenient location for public travel. The board of county commissioners shall be authorized to construct any bridge or road, if not built by the owner of the works within three days after the obstruction of the road, and may recover the expenses thereof and costs in a civil suit, unless the same shall be paid by the owner of the works within ten days after demand therefor. The board of county commissioners may make reasonable requirements as to the size and character of any such bridge along a public highway, or for the necessary reconstruction of such a road, and upon failure to comply therewith, may do the necessary work and collect the expense thereof and costs as hereinbefore provided. After the construction of such bridge or road as part of a public highway, the same shall be maintained by the board of county commissioners.

61-14-10. Obstructing works unlawful. Whenever any appropriator of water has the right of way for the storage, diversion, or carriage of water, it shall be unlawful to place or maintain any obstruction which shall interfere with the use of the works or prevent convenient access thereto.

61-14-11. Penalty. If no penalty is provided specifically, any violation of the provisions of this chapter, declared herein to be unlawful, shall be a class B misdemeanor.

61-14-12. Liens on land. All liens on land, provided for in chapter 61-09, shall be superior in right to all mortgages or other encumbrances placed upon the land and the water appurtenant thereto or used in connection therewith.

61-14-13. Seepage water. In the case of seepage water from any constructed works, any party desiring to use the same shall make application to the state engineer, as in the case of unappropriated water, and such party shall pay to the owner of such works a reasonable charge for the storage or carriage of such water in such works, if the appearance of such seepage water can be traced beyond reasonable doubt to the storage or carriage of water in such works. The state engineer shall not issue a permit to appropriate such seepage waters until an agreement for the payment of such charges shall have been entered into by the said parties.

61-14-14. Disposition of state lands. No lands belonging to the state, within the areas to be irrigated from works constructed or controlled by the United States, or its duly authorized agencies, shall be sold except in conformity with the classification of farm units by the United States, and the title to such lands shall not pass from the state until the applicant therefor shall have complied fully with the provisions of the laws of the United States and the regulations thereunder concerning the acquisition of the right to use water from such works and shall produce the evidence thereof duly issued. After the withdrawal of lands by the United States for any irrigation project, no application for the purchase of state lands within the limits of such withdrawal shall be accepted, except upon the conditions prescribed in this section. Any state lands needed by the United States for irrigation works shall be sold to the United States at the lowest price authorized by law.

61-14-15. Unauthorized diversion of water from irrigation ditches. It is unlawful for any person to divert any of the water from any irrigation works in this state without first having obtained the permission of the owner of the works or of the person or persons lawfully in charge thereof.

61-14-16. Willfully allowing water to flow or fall upon roadway prohibited - Penalty. No person may place, erect, or operate a sprinkler irrigation system, center pivot irrigation system, or other irrigation works or equipment upon or across any highway, street, or road or in such a manner as to willfully allow water from the irrigation works or equipment to flow or fall upon any highway, street, or road. This section does not apply to the transportation of irrigation works or equipment upon a highway, street, or road. A person violating this section is guilty of an infraction.