HEMPHILL COUNTY
Underground Water Conservation District
Conserving a Texas Oasis

HEMPHILL COUNTY UNDERGROUND WATER CONSERVATION DISTRICT RULES

(includes rules and amendments adopted through January 12, 2026)

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HEMPHILL COUNTY UNDERGROUND WATER CONSERVATION DISTRICT RULES

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CHAPTER 1 GENERAL PROVISIONS

1.001 Purpose of Rules
1.003 Construction of Rules
1.005 Business Office and Mailing Address

1.001 Purpose of Rules

The rules of the District are intended to be consistent with and implement the objectives of § 59, art. XVI, Texas Constitution, the District's enabling statute (TEX. SPECIAL DIST. LOCAL LAWS CODE §§ 8894.001–.0102 ("District Act"), Chapter 36, TEXAS WATER CODE, the District's management plan, and other general laws applicable to the District, as may be amended. The purpose of the rules of the District is to provide for the:

(1) conservation, preservation, protection, and prevention of waste of groundwater in or produced from the aquifer;

(2) prevention of degradation of the water quality of groundwater in the aquifer;

(3) management, regulation, and limitation of production of groundwater from the aquifer;

(4) minimization, as far as practicable, of the drawdown of the water table of the aquifer;

(5) lessening of interference between wells;

(6) recharging of groundwater into the aquifer; and

(7) carrying out the other powers and duties of the District.

1.003 Construction of Rules

In these rules, words and phrases shall be read in context and be construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning shall be construed accordingly. The past, present, and future tense shall each include the other; the masculine, feminine and neutral gender shall each include the other; and the singular and plural number shall each include the other.

1.005 Business Office and Mailing Address

The business office of the District is located at 211 North 2nd Street, Canadian, Texas 79014. The mailing address of the District is P.O. Box 1142, Canadian, Texas 79014.

CHAPTER 2 DEFINITIONS

2.001 Purpose
2.003 Definitions

2.001 Purpose

The purpose of this chapter is to provide for uniform and consistent definitions of words and phrases used in the District's rules.

2.003 Definitions

The following words and terms, when used in any rule of the District, shall have the following meanings:

(1) abandoned well - the meaning as provided at § 1901.255(a)(1), Texas Occupations Code, as may be amended.

(2) acre-foot - the amount of water necessary to cover one acre of land to the depth of one foot, or 325,851 U.S. gallons of water.

(3) agricultural use - any use or activity involving agriculture, including irrigation. For purposes of this definition, agriculture includes any of the following activities:

(A) cultivating the soil to produce crops for human food, animal feed, or planting seed, or for the production of fibers;

(B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers, or nonsoil media, by a nursery grower;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;

(E) wildlife management; and

(F) raising or keeping equine animals.

Additionally, for purposes of this definition, nursery grower means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or

lease and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.

(4) applicant - a person who files an application with the District.

(5) application - the form document prepared and prescribed by the District to initiate the process of obtaining a permit, or any other District approval.

(6) aquifer - all or part of any water bearing stratum or formation underlying the District's boundaries, including but not limited to, the Ogallala Aquifer.

(7) aquifer storage and recovery (ASR) project – a project involving the injection of water into a geologic formation for the purpose of subsequent recovery and beneficial use by the project operator.

(8) aquifer storage and recovery project operator – person holding an authorization for an aquifer storage and recovery project under Chapter 27, Water Code.

(9) ASR injection well – a Class V injection well used for the injection oof water into a geologic formation as part of an aquifer storage and recovery project.

(10) ASR recovery well – a well used for the recovery of water from a geologic formation as party of an aquifer storage and recovery project.

(11) authorized well site - the location of an existing well, a proposed well, or a permitted well specifically identified in:

(A) an application filed with the District, upon which no final action has yet been taken; or

(B) a drilling permit issued by the District;

(C) a production permit issued by the District or,

(D) a registered well.

(12) beneficial use - use of groundwater for:

(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or

(C) any other purpose that is useful and beneficial to the user.

(13) Board - the Board of Directors of the District.

(14) commercial use – the use of water for or in connection with commercial activities, including but not limited to, tourism, retail or wholesale business, entertainment, lodging, electric general, and other business activities.

(15) commission - the Texas Commission on Environmental Quality.

(16) conservation - any measure that sustains, enhances, or improves the efficiency of the use of groundwater.

(17) contested case hearing - a proceeding before the District in which the legal rights, duties or privileges of a party are to be determined by the Board after an opportunity for an adjudicative hearing.

(18) deteriorated well - the meaning as provided at § 1901.255(a)(2), Texas Occupations Code, as may be amended.

(19) dispose - to discharge, deposit, inject, dump, spill, leak, or place a substance into or on any land or water so that such substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

(20) District - the Hemphill County Underground Water Conservation District.

(21) domestic use – drinking, washing, culinary purposes, lawn watering, irrigation of a family garden or orchard for household consumption, or watering of animals associated with the household.

(22) domestic well - a well, or an exploratory hole, the production from which is used solely for domestic use, and the well is drilled, completed, or equipped so that it is incapable of producing more than 50,000 gallons of groundwater a day (35 gpm) from the aquifer.

(23) drilling permit - a permit issued by the District for the construction, drilling, installation, equipping, completion, reworking, alteration, or modification of a well, or other work designed for the production of groundwater from the aquifer.

(24) existing well - any well drilled into the aquifer prior to, and in operation on June 4, 2008. For purposes of this definition, a well is in operation if groundwater is being produced from the well, or the well is equipped such that, without physical modification or alteration, the well is capable of withdrawing groundwater.

(25) exploratory hole - any hole drilled to a depth greater than the top of the aquifer for the purpose of securing geological or other information, which may be obtained by penetrating the earth with a drill bit, and includes what is commonly referred to in the industry as “water well test holes”, “slim hole test”, “seismograph test holes”, and the like.

(26) explosives - any chemical compound, mixture, or device by whose decomposition or combustion gas is generated with such rapidity that it can be used for blasting.

(27) general manager - the person hired by the Board to function as the chief administrator of the District.

(28) gpd - gallons per day.

(29) gpm - gallons per minute.

(30) groundwater - water percolating below the surface of the earth.

(31) groundwater exportation permit - a permit issued by the District authorizing the exportation of groundwater produced from a well within the District's boundaries to a place of use located outside of the District's boundaries.

(32) industrial use – the use of water for or in connection with industrial activities, including but not limited to, manufacturing, bottling, brewing, food processing, scientific research and technology, recycling, production of concrete, asphalt, and cement, quarrying, and similar activities.

(33) Judge – an administrative law judge, or hearing examiner engaged by the Board to conduct contested case hearings before the District.

(34) large production well - any well, or an exploratory hole, drilled, completed, and equipped to be capable of producing more than 288,000 gallons of groundwater a day (200 gpm) from the aquifer.

(35) livestock well - a well, or an exploratory hole, the production from which is used solely for livestock or poultry use, and the well is:

(A) on a tract of land larger than 10 acres;

(B) drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day (17.4 gpm) from the aquifer.

(36) monitoring well - a well, or an exploratory hole, installed to measure some property of the aquifer or groundwater therein, such as water quality or water level, that does not produce groundwater from the aquifer for the purpose of water supply.

(37) municipal use – water supplied to retail or wholesale end users by persons, municipalities, utilities, political subdivisions, or other water purveyors for domestic, industrial, or commercial uses, and fire fighting, sewer and drain flushing, swimming pools, and maintenance of public property.

(38) new well – any well that is:

(A) to be drilled into the aquifer on or after June 4, 2008; or

(B) drilled into the aquifer prior to, but not in operation on June 4, 2008, and intended by the owner to be made operational after June 4, 2008.

(39) Ogallala aquifer – that part of the Ogallala formation that contains sufficient saturated, permeable material to yield significant quantities of water to wells and springs. The Ogallala formation is composed of sand, gravel, clay, and silt deposited during the Tertiary Geologic Period. The ground water in the Ogallala saturated materials generally exists under water-table conditions. The Ogallala is the primary aquifer in Hemphill County.

(40) open well – a well, or exploratory hole, dug or drilled for the purpose of exploring for or producing water from the aquifer that is not capped or covered.

(41) party - a person admitted as a party in a contested case hearing.

(42) permittee – a person who owns a permit issued by the District.

(43) person - any individual, organization, partnership, firm, state agency, political subdivision, corporation, business trust, estate, trust, association, or other legal entity.

(44) plat - a map of specific tracts of land showing the location and boundaries of individual tracts of lands subdivided into other smaller tracts with streets, alleys, squares, parks, or other parts of a tract of land, and easements drawn to scale.

(45) pleading - any document filed by a party in a contested case hearing.

(46) production permit – a permit issued by the District authorizing the production of groundwater from the aquifer within the boundaries of the District.

(47) protestant - any person opposing, in whole or in part, an application for which a request for a contested case hearing can be filed under the District's rules.

(48) recharge – the amount of water that infiltrates to the water table of an aquifer.

(49) recharge injection well – a well, or exploratory hole, used to inject source water directly into the aquifer for any purpose.

(50) recreational use – the use of water for, or in connection with recreational activities, including but not limited to, fishing, swimming, boating, or hunting.

(51) Red Bed Formation – Permian age materials composed of fine-grained sandstones, siltstones, shale, gypsum, anhydrite, and dolomite. Some salt layers may be present. These materials are generally within the Whitehorse Group of formations. The materials are characterized

by a deep red color. The Ogallala sediments were deposited on top of the eroded surface of these materials.

(52) registered well – any well registered with the District.

(53) registrant - a person who files a registration with the District.

(54) replacement well – any well drilled with the purpose of replacing an existing well and drilled within 150 feet of the existing well or in accordance with spacing requirement in rule 5.407.

(55) RRC – the Railroad Commission of Texas.

(56) RRC-permitted well - a production, injection, or core test well, drilled under permits issued by the RRC for:

(A) oil, gas, sulfur, uranium, or brine; or

(B) the injection of gas, saltwater, or other fluids.

(57) rig supply well - a water well the production from which is used solely to supply water for a rig actively engaged in drilling or exploration operations for an oil and gas well permitted by the RRC provided that the person holding the RRC permit is responsible for drilling and operating the water well and the well is located either on the same lease or field associated with the drilling rig.

(58) saturated thickness - is the vertical distance between the water table and the base of the aquifer, where the pores between the solid particles are filled with water.

(59) SCDA – strategic conservation depletion area is an area where the aquifer decline is exceeding the acceptable decline rate.

(60) section 36.121 municipal well – any well, or an exploratory hole, that meets the following criteria:

(A) the well is located within the District's boundaries;

(B) the well produces groundwater from the aquifer;

(C) the production from the well is used solely to supply a municipality that has a population of 121,000 or less;

(D) the rights to the groundwater produced from the well are owned by one of the following:

(i) a political subdivision that is not a municipality; or

(ii) a municipality that has a population of 115,000 or less; and

(iii) the rights to the groundwater were purchased, owned, or held before May 19, 1995, regardless of the date the well is drilled or the water is produced.

(61) small production well - any well, or an exploratory hole, drilled, completed, or equipped to be capable of producing equal to or less than 288,000 gallons of groundwater a day (less than 200 gpm) from the aquifer.

(62) SOAH - the State Office of Administrative Hearings.

(63) source water – water that is artificially injected into the aquifer.

(64) TDLR – the Texas Department of Licensing and Regulation.

(65) tract of land - a lot, piece, or parcel of land irrespective of size.

(66) TWDB – the Texas Water Development Board.

(67) waste - any one or more of the following:

(A) production of groundwater from the aquifer at a rate and in an amount that causes or threatens to cause intrusion into the aquifer of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from the aquifer if the water produced is not used for a beneficial purpose;

(C) escape of groundwater from the aquifer to any other reservoir or geologic strata that does not contain groundwater;

(D) pollution or harmful alteration of groundwater in the aquifer by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

(E) willfully or negligently causing, suffering, or allowing groundwater produced from the aquifer to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26, TEXAS WATER CODE, as may be amended;

(F) groundwater pumped from the aquifer for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or

(G) for water produced from an artesian well from the aquifer, if any, “waste” has the meaning assigned by § 11.205, TEXAS WATER CODE, as may be amended.

(68) well - any artificial opening or excavation in the ground to a depth greater than the top of any stratum containing groundwater.

CHAPTER 3 JURISDICTION OF THE DISTRICT

3.001 Purpose
3.003 General District Jurisdiction
3.005 Wells Not Subject to District Jurisdiction

3.001 Purpose

The purpose of this chapter is to identify the water resources and related activities over which the District asserts its jurisdiction and regulatory authority.

3.003 General Jurisdiction of the District

The District has jurisdiction to manage and regulate within its geographic boundaries the:

(1) production of groundwater from the aquifer;

(2) quantity of groundwater in the aquifer;

(3) quality of groundwater in the aquifer;

(4) use of water produced from wells from the aquifer, to ensure its beneficial use, conservation, avoidance of waste, and management during drought conditions; and

(5) recharge of water into the aquifer, except ASR injection wells authorized by the commission.

3.005 Wells Not Subject to District Jurisdiction

Pursuant to § 36.117(l), TEXAS WATER CODE, as may be amended, the District asserts no jurisdiction over or otherwise regulates RRC-permitted wells within its geographic boundaries completed in or transecting the aquifer.

CHAPTER 4 FEES AND DEPOSITS

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4.003 Applicability
4.005 Registration Fees; Well Log Deposits
4.007 Application Fees; Well Log Deposits; Additional Application Fee Deposit
4.009 Well Log Deposit Return and Forfeiture
4.011 Groundwater Export Fees

4.001 Purpose

The purpose of this chapter is to establish fees and deposits for the:

(1) processing of registrations and applications filed with the District, and

(2) export of groundwater from the District.

4.003 Applicability

This chapter applies to all persons:

(1) filing registrations or applications with the District; or

(2) exporting from the District, water produced from the aquifer from a well located within the District's boundaries.

4.005 Registration Fees

(a) The general manager shall assess a $250 non-refundable fee per well to file with the District a registration. The fee must accompany the registration form and be paid at the time of filing. If the registrant fails to pay the fee at the time of filing, the general manager shall refuse to accept the registration for filing.

(b) This section does not apply to the registration of existing wells or meters.

4.007 Application Fees; Additional Application Fee Deposit

(a) The general manager shall assess a $250 non-refundable fee per well for the following applications:

(1) a new or amended large production permit; or

(2) a new or amended exportation permit.

(b) The general manager shall assess a $30.00 non-refundable fee to file any other application with the District.

(c) The fee must accompany the application form and be paid at the time of filing. If the applicant fails to pay the fee at the time of filing, the general manager shall refuse to accept the application for filing.

(d) The general manager shall assess a $100 per well log deposit to file with the District an application for a well drilling permit for a new well. The deposit must accompany the application form and be paid at the time of filing. If the applicant fails to pay the deposit, the general manager shall refuse to accept the application for filing.

(e) If an application fee is determined by the general manager to be insufficient to cover the anticipated costs of processing an application, the general manager may require the applicant to post an additional application fee deposit in an amount determined to be sufficient to cover anticipated costs. The costs for which the District may seek an additional application fee include but are not limited to the cost for public notices, legal fees, expert fees, hearing facility rental fees, and other expenses. If the applicant fails to pay an additional deposit, then the general manager shall suspend processing the application, and may return the application to the applicant. As application processing costs are incurred by the District, at the general manager's discretion, the District may incur costs itself and seek reimbursement from the additional deposited funds, or may expend deposited funds directly to pay for additional application processing costs. The applicant shall be provided a monthly accounting of billings against the deposit. If the additional deposit is determined by the general manager to be insufficient to cover the application processing costs, then the applicant may be required to pay additional application fee deposits. Any unexpended and unobligated application fee deposits will be promptly returned to the applicant after the Board issues a final order disposing of the application.

4.011 Groundwater Export Fees

(a) The District shall assess, and all persons exporting groundwater produced from the aquifer from a well within the District's boundaries to a place of use outside of the District's boundaries shall pay, an export fee based on per thousand gallon units of the metered volume of groundwater produced for export. The export fee applies to and will be assessed on all groundwater produced from the aquifer as follows:

(1) water exported from the District's boundaries to a place of use outside the District's boundaries;

(2) operational water that is lost in the operation and maintenance of the export project and not actually exported from the District's boundaries; and

(3) reject water processed in order to produce water of a suitable quality for export and not actually exported from the District's boundaries.

(b) The export fee shall be calculated and assessed per thousand gallons using one of the following methods:

(1) an annual fee negotiated between the District and the person exporting groundwater; or

(2) an export fee rate adopted, after public hearing, by the Board not later than October 1st of each year, by order, for the succeeding fiscal year in an amount not to exceed 20 cents for each thousand gallons of water exported from the District. The maximum export fee rate that the District may assess shall increase by three percent each calendar year as follows:

Year Export Fee Rate is Effective	**Maximum Rate (in cents per thousand gallons of water exported from the district)**
2025	20.60
2026	21.22
2027	21.86
2028	22.52
2029	23.20
2030	23.90
2031	24.62
2032	25.36
2033	26.12
2034	26.90

The District may use any funds obtained from the amount that an export fee is increased under this provision only for costs related to assessing and addressing impacts associated with groundwater development, including: (1) maintaining operability of wells significantly affected by groundwater development; (2) developing or distributing alternative water supplies; and (3) conducting aquifer monitoring, data collection, and aquifer science.

(c) The general manager will bill and collect the export fee. The quarterly groundwater exportation report shall constitute the export fee invoice. A well owner shall file the completed groundwater exportation report form with the District not later than the fifteenth day of April, July, October, and January of each year. Payment of the export fee shall accompany the groundwater exportation report. The export fee for the immediate preceding quarter becomes due and payable on the first day of January, April, July, and October. An invoice for the immediate preceding quarter becomes delinquent if payment in full is not received by the District by the close of business on the fifteen day of April, July, October, and January.

(d) For any export fee that is delinquent, if payment in full is not received on or before 10 days after the date the amount becomes delinquent, then the general manager shall assess, for every month thereafter that the invoice remains delinquent, an administrative penalty of 10%. Additionally, each day that an export fee is delinquent constitutes a separate violation of the District's rules.

(e) No person may export groundwater outside the District's boundaries if the owner of the well from which the exported groundwater is produced, or his predecessor in interest, is delinquent in the payment of any fee that is due and payable to the District.

(f) Any person who, without any legal authority, exports groundwater outside the District's boundaries shall pay to the District the export fee then in force and effect for the period of time during which the unauthorized exports were made.

(g) Any person who exports groundwater outside the District's boundaries without metering in accordance with Subchapter G of Chapter 5, shall pay to the District the export fee then in force and effect based on the maximum amount of water the person is authorized to export under an export permit.

CHAPTER 5 GROUNDWATER PRODUCTION

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Subchapter A General Provisions

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5.001 Purpose

The purpose of this chapter is to provide for the management, regulation, and limitation of production of groundwater from the aquifer.

5.005 Beneficial Use; Prohibition on Waste

Groundwater produced from the aquifer may only be used for a beneficial purpose. No person may produce or use groundwater from the aquifer in such a manner to constitute waste. Any person producing or using groundwater from the aquifer shall employ all reasonable methods to identify, prevent and stop the waste of water.

5.007 Operation of Well at Higher Than Authorized Rate Prohibited

No person may operate a well within the District's boundaries at a rate of production higher than the rate authorized by a permit, these rules, or other applicable law. All such unauthorized production is illegal, wasteful per se, and a nuisance.

5.009 Conveyed Water; Pipelines

All persons shall use reasonable diligence to convey water from the wellhead where produced to the place of use in order to prevent waste caused by evaporation or channel loss by percolation. Water conveyed greater than a distance of one-half mile from the wellhead where produced must be conveyed through a pipeline.

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5.101 Purpose

The purpose of this subchapter is through permits to provide for the management, regulation, and limitation of production of groundwater from the aquifer.

5.103 Applicability

(a) Except as provided by subsection (b), this subchapter applies to the owners of any well within the District's boundaries producing, or intended to produce, groundwater from the aquifer.

(b) This subchapter does not apply to owners of a well required to be registered under subchapter D of this chapter, with the exception that the SCDA provisions in § 5.109 and § 5.111 are applicable to owners of rig supply wells.

5.105 Authorized Uses

A production permit may be issued by the District for one or more of the following beneficial uses:

(1) domestic use;

(2) livestock use;

(3) agricultural use;

(4) municipal use;

(5) industrial use;

(6) commercial use; or

(7) recreational use.

5.107 Groundwater Production Allowances; New Wells; Existing Wells; Irrigation Water Duty

(a) The owner of a new well with a production permit, or an existing well converted under § 5.211(b), may not produce from the well identified in the permit more than the lesser of the following amounts of groundwater as set out in the permit:

(1) Beneficial Use.

(A) The amount of water that can be beneficially used without waste for the purpose of use for which the production permit is issued.

(B) The applicable water duty set out in subsection (b) for irrigators, or for crops not listed in subsection (b), the normally accepted practices for irrigation duties as documented by the Agricultural Extension Service.

(2) Spacing Requirements. The amount of groundwater that can be produced from the well based on the spacing requirements in § 5.407.

(3) Maximum Production Allowance. The maximum production allowance for a well is 2,000 gpm.

(4) Acceptable Decline Rate. The amount of groundwater that can be produced from the well such that the water level of the aquifer does not decline by greater than 1% per calendar year of the saturated thickness of the aquifer at the point at which the well penetrates the aquifer or based on the official saturated thickness maps of the District. The saturated thickness will be established on a five-year basis.

(5) SCDA Conditions. The applicable SCDA production allowance set out in an applicable SCDA order.

(b) The irrigator water duties by crop type based on developed acres are as follows:

TABLE 1 – IRRIGATION WATER DUTY	
CROP TYPE	**IRRIGATION WATER DUTY (IN ACRE-FEET/ACRE/ANNUM)**
Alfalfa	3
Corn	2
Cotton	1
Haygrazer	1
Peanuts	2
Sorghum	1
Soybean	1
Sunflowers	0.5
Wheat	1

(c) An owner of an existing well may not produce from the well more than the lesser of the amounts set out in subsection (a)(1), (3) - (5).

5.109 Wells Subject to SCDA Production Allowances; Determination of Decline; Determination of SCDA Production Allowances; SCDA Orders; Commencement and Termination of SCDA Conditions

(a) In addition to the requirements of § 5.107, if applicable, owners of the following wells are subject to SCDA production allowances when such allowances are in effect:

(1) existing and new small production wells;

(2) existing and new large production wells; and

(3) rig supply wells.

(b) The Board shall establish a SCDA when it determines that production from a well or wells is depleting the aquifer at a rate greater than the authorized decline rate in § 5.107(a)(4) for no less than three (3) consecutive years. Depletion will be determined from water level measurements conducted by the District at appropriate monitoring wells or other wells from which accurate and relevant water level measurements may be made.

(c) SCDA conditions for a well subject to SCDA production allowances commence on the date set out in a SCDA order issued by the Board. Not later than 15 days from the date of issuance of a SCDA order by the Board, the general manager shall notify each well owner subject to the order of the issuance of the order in writing, by certified mail return receipt requested, providing a copy of the SCDA order, the SCDA production allowance for each well and the effective period of the order.

(d) The determination of a SCDA production allowance by the Board shall be based on the reduction in the volume or rate of groundwater production from a well experiencing SCDA conditions that over time is necessary and expected to bring the actual decline rate for the well back into compliance with the authorized decline rate in § 5.107(a)(5). The SCDA production allowance shall be determined after reviewing the following information:

(1) the previous year's depletion maps;

(2) the current saturated thickness map of the District;

(3) the actual water level measurements and the average water level declines for the District for the previous year;

(4) maps and tables depicting the previous 3, 5 and 10 year average water level declines for the District;

(5) any additional information that may be available as a result of the development of new technology or procedures;

(6) groundwater production and use reports for the last 3 years;

(7) the specific yield of the aquifer, production records and other hydrological information available;

(8) environmental events which have occurred or are occurring;

(9) identification of new wells drilled within or nearby the area of decline;

(10) changes in water use practices or programs; and

(11) any other information which may relate to the cause of the depletion of the aquifer at a rate greater than the authorized rate in § 5.107(a)(5).

(e) SCDA conditions for a well currently subject to a SCDA order and production allowances terminate on the date set out in a SCDA order issued by the Board canceling a SCDA order in which the Board determines that production from the well is no longer depleting the aquifer at a rate greater than the authorized decline rate in § 5.107(a)(5) for no less than three consecutive calendar years as determined from water level reports filed by the well owner or as determined by the District from water level measurements conducted by the District at appropriate monitoring wells or other wells from which accurate and relevant water level measurements may be made. Not later than 15 days from the date of issuance of an SCDA cancellation order by the Board, the general manager shall notify in writing, by certified mail return receipt requested, each well owner subject to the order of the issuance of the cancellation of order, provide a certified copy of the SCDA cancellation order, state that the well is no longer subject to SCDA production

reporting, the authorized production limit for the remainder of the term of the production permit and the effective date of the cancellation order.

5.111 Changes in SCDA Production Allowances

The Board may amend SCDA orders and change SCDA production allowances as aquifer conditions may require in order to bring or maintain a well subject to a SCDA order within the authorized aquifer decline rate set out in § 5.107(a)(4).

5.113 Production Permits Required; Exception for Registered Wells; Applications; Filing Deadlines for Existing Small or Large Production Wells; Consequences of Failure to File

(a) Producing groundwater from the aquifer from a well without a required production permit is illegal, wasteful per se, and a nuisance.

(b) Any person owning a new well to which this subchapter is applicable under § 5.103 is required to obtain a production permit prior to producing groundwater from the aquifer and must file with the District an application for a production permit on a form prescribed by the District.

(c) No later than 5:00 p.m. on December 31, 2030, an owner of an existing well to which this subchapter is applicable under § 5.103 shall file with the District at the official offices of the District an application for a production permit. The owner of a small or large production well who does not timely file an application for a production permit shall cease production from the well and close the well under Subchapter D of Chapter 6, until the time that the well owner obtains a production permit from the District and:

(1) be subject to enforcement; or

(2) lose its exemption from spacing requirements.

5.117 Basis for Action on Production Permit Applications

The Board shall grant an application for a production permit if the Board finds that:

(1) the application is complete;

(2) the application complies with the rules of the District;

(3) all applicable fees and deposits have been paid;

(4) the applicant owns the proposed or existing well;

(5) the applicant has a legal right to produce groundwater from the proposed or existing well;

(6) the application identifies a proposed, or an existing well, for the production of groundwater from the aquifer and the proposed rate of withdrawal;

(7) the wellhead is, or will be physically located, within the boundaries of the District;

(8) the withdrawals are proposed to be placed to a beneficial use;

(9) based on the applicable groundwater production allowance under § 5.107 there is sufficient volume of groundwater to satisfy the applicant's intended purpose of use for the term of the permit;

(10) the place of use is located within the District's boundaries, unless the applicant also has obtained or applied for a groundwater exportation permit from the District;

(11) the water produced from the well will be conveyed consistent with § 5.009;

(12) the applicant is in compliance with any permits the applicant holds from the District and with District rules;

(13) the activities of the applicant constituting the purpose of use for which the groundwater will be beneficially used will be managed to preserve, protect, prevent the pollution, degradation, or harmful alteration of, control and prevent the waste of, prevent the escape of groundwater from, and achieve the conservation of groundwater in and produced from, the aquifer;

(14) the well will be equipped with a pump consistent with the ordinary and usual pumping rates as set out in § 5.407 at Table 3, or if equipped with a pump of a different size or type, or operated at a different rate in gpm, suitable detailed explanation in support has been provided;

(15) the proposed use of water does not unreasonably affect existing groundwater or surface water resources or existing holders of permits issued by the District, or wells that are registered with the district and exempt from the requirement to obtain a permit under Chapter 36, Texas Water Code, or the District's rules;

(16) operation of the well will not cause unreasonable interference between wells; and

(17) the application is consistent with the District's management plan, as may be amended.

5.119 Production Permit Terms; Renewal; Applications

(a) Production permits for large production wells expire and are void and of no force or effect five years from the date of issuance. A production permit may be renewed. Any person seeking the renewal of a production permit must file with the District an application to renew on a form prescribed by the District. The general manager will notify permittees by regular mail of the need to renew their permit no later than 18 months prior to the expiration of the permit. The

renewal application must be filed with the District no earlier than 18 months and no later than one year prior to the expiration of the permit.

(b) Production permits for small production wells do not expire unless a SCDA order is issued, in which case, within 30 days of the effective date of the SCDA order, the permit term shall be converted to five years from the effective date of the order. A production permit for a small well within an SCDA may be renewed. Any person seeking the renewal of a small well production permit within a SCDA must file with the District an application to renew on a form prescribed by the District. The general manager will notify permittees by regular mail of the need to renew their permit no later than 18 months prior to the expiration of the permit. The renewal application must be filed with the District no earlier than 18 months and no later than one year prior to the expiration of the permit.

5.121 Basis for Action on Production Permit Renewal Applications

The Board shall grant an application for a production permit if the Board finds that:

(1) the elements provided for in § 5.117 are established;

(2) during the term of the permit, the applicant demonstrates a positive compliance history with the permit's terms and conditions, and the District's rules;

(3) there are no changes to be made to the permit regarding volume produced, unless required to be adjusted by a SCDA order, point of withdrawal or place of use; and

(4) the application complies with the District's rules, as may be amended.

5.123 Contents of Production Permits

A production permit shall include the following terms and conditions:

(1) the name, physical address, mailing address, and telephone number of the permittee;

(2) the name, physical address, mailing address, and telephone number of the authorized representative, if any, of the permittee;

(3) if not owned by the permittee, the name, physical address, mailing address, and telephone number of the owner of the land on which the well is located;

(4) the location of the well(s);

(5) the permit term, including dates of issuance date, effectiveness, and termination;

(6) the purpose of use for which the water produced from the well will be used;

(7) the specific location of the place of use of the water produced from the well;

(8) if the place of use is not within the District's boundaries, the permittee must obtain a groundwater exportation permit from the District prior to the withdrawal of groundwater under the permit;

(9) the requirements for the conveyance of water produced from the well to the place of use;

(10) the maximum rate of production in gpms, and any conditions relative thereto;

(11) the maximum amount of production in acre-feet per annum by purpose of use, and any conditions relative thereto;

(12) the estimated saturated thickness expressed in feet;

(13) the amount of allowed decline expressed in feet equivalent to a 1% decline of the saturated thickness;

(14) appropriate meter information;

(15) appropriate pump information;

(16) reporting requirements; and

(17) other terms and conditions as may be required by the Board.

5.125 Standard Permit Conditions

All production permits shall be issued with and subject to the following conditions:

(1) the duty to beneficially use water and avoid waste;

(2) the duty to conserve water in accordance with applicable law, and comply with either the District's water conservation plan, as may be amended from time to time, or the permittee's plan approved by the District, as appropriate;

(3) the duty to properly close (cap or plug) all wells in accordance with applicable law, and comply with either the District's well closure plan, if any, as may be amended from time to time, or the permittee's plan approved by the District, as appropriate;

(4) the duty to file all applicable reports with the District, and other appropriate federal, state, or local governments;

(5) the duty to reduce water or production or consumption during times of drought in accordance with applicable law, and comply with either the District's drought management plan,

as may be amended from time to time, or the permittee's plan approved by the District, as appropriate;

(6) the duty to reduce water production or consumption if the well is experiencing SCDA conditions in accordance with a SCDA order issued by the Board;

(7) the District's management plan, as may be amended from time to time;

(8) the duty to use diligence to protect the groundwater quality of the aquifer;

(9) the duty to comply with the District's rules, as may be amended;

(10) permit review, renewal, or extension conditions;

(11) the duty to locate all wells, and confirm the actual location with the proposed location in the application or as provided for in the permit, consistent with the District's well spacing rules, prior to the production from any wells identified in the permit or application;

(12) the continuing right of the District to supervise and manage groundwater production and the depletion of the aquifer;

(13) the duty to install, equip, operate, maintain, and close all wells in accordance with the District's rules, and other applicable federal, state, and local law;

(14) the duty to install, equip, operate, and maintain all meters in accordance with the District's rules and manufacturer's instructions;

(15) the duty to comply with the District's rules relating to transfers and amendments of permits;

(16) the duty to pay and be current in the payment of all applicable fees;

(17) the duty not to export groundwater from a well within the District's boundaries to a place of use outside the District's boundaries without a groundwater exportation permit issued by the District;

(18) the duty to record the permit;

(19) the duty to give notice to District of any changes in name, address, or telephone number of the permittee, or the authorized representative, or the landowner, as may be appropriate;

(20) the duty to comply with all of the terms and conditions of the permit;

(21) the right of the District to enter land under § 36.123, TEXAS WATER CODE, as may be amended; and

(22) any other conditions as the Board may deem appropriate.

5.127 Monitoring Wells for Multiple Well Projects

Unless otherwise determined by the Board, owners of production permits for a multiple well project are required to install water level monitoring wells at a minimum ratio of 1 monitoring well per every 4 production wells associated with the project.

5.129 Recordation of Production Permits

(a) Not later than 30 days after the date of issuance of a production permit, or an amended permit, the general manager will record the permit in the deed records of Hemphill County.

(b) Within 30 days of final action to approve a notice of transfer of ownership, or an application to amend permit, the general manager will record any new or amended permits issued in the appropriate real estate or deed records of:

(1) Hemphill County; and

(2) if the place of use is outside the District's boundaries, then in the county in which the place of use is located.

5.131 Groundwater Production in Violation of Permit Prohibited; Permit Transfers and Amendments; Applications; Exceptions; Certain Transfers of Production Permits Prohibited

(a) No holder of a production permit may produce groundwater from the aquifer inconsistent with the permit, and any such production is illegal, wasteful per se, and a nuisance. No change in the production and use of groundwater under a permit may be made without the prior approval of a permit amendment issued by the Board.

(b) Except as provided in subsection (e), this section applies to the owners of production permits seeking to transfer or change their permit in the following respects:

(1) purpose of use;

(2) place of use;

(3) the maximum rate of production in gpms; or

(4) the total volume of groundwater produced in acre-feet per annum.

(c) Any person seeking to transfer or change their permit as provided in subsection (b) must file with the District an application to amend on a form prescribed by the District.

(d) This section does not apply to the wholesale or retail sale of groundwater on a commodity basis to a person under a utility service contract, water supply contract, or similar document, unless the implementation of the contract results in a transfer or change described in this section.

(e) The District may not approve a transfer of the point of withdrawal .

5.133 Basis for Granting Applications to Amend Production Permits

The Board shall grant an application to amend a permit if it finds that:

(1) the elements provided for in § 5.117 are established; and

(2) during the term of the permit, the applicant, transferor, or transferee, as may be appropriate, demonstrates a positive compliance history with the permit's terms and conditions, and the District's rules.

5.135 Transfer of Ownership; Leases; Notice of Transfer

(a) The ownership of a production permit may be transferred separately from the ownership of a place of use or point of withdrawal. The owner of a production permit may authorize a person other than the permit owner to produce groundwater under the permit.

(b) Within 30 days after transfer of the ownership of a production permit, or lease of the right to produce thereunder, the transferee shall file with the District a notice on a form prescribed by the District. For transfers of ownership, if the notice is complete, and the transfer is otherwise in compliance with this subchapter, the general manager shall reflect the new ownership and issue an amended permit to the transferor, transferee, or both, as may be appropriate. For leases, the general manager will update the District's permit records to reflect the lease.

5.137 Effective Date of Transfers or Amendments

No permit transfer or amendment is effective until the application or notice has been approved by the Board.

Subchapter C Wells Exempt from Production Permits

5.201 Purpose
5.203 Applicability
5.205 Registration Required
5.207 Production Limitations
5.209 Loss of Exemptions; Notice of Changed Circumstances
5.211 Well Conversions

5.201 Purpose

The purpose of this subchapter is to provide for the management, regulation, and limitation of production of groundwater from the aquifer from wells exempt from the duty to obtain a production permit from the District.

5.203 Applicability

(a) This subchapter applies to the owner of any of the following wells:

(1) existing or new domestic wells;

(2) existing or new livestock wells;

(3) existing or new rig supply wells;

(4) existing or new monitoring wells; and

(5) § 36.121 wells; and

(6) a well that is temporarily and solely used to supply water for a rig that is actively engaged in drilling a groundwater production well which is, or will be, permitted by the District.

As used herein, the term "temporarily" shall mean a time period not to exceed 180 days, except that this 180-day period may be extended by the District until the well that is, or will be, permitted by the District is complete.

5.205 Registration Required

All owners of a new or existing well to which this subchapter applies as identified in § 5.203, shall register the well as provided in Subchapter D of this chapter.

5.207 Production Limitations

(a) Except as provided in subsection (b), the District imposes no restrictions on the production of any well that is exempt from the duty to obtain a production permit.

(b) The owner of a well exempt from the duty to obtain a production permit may not produce, and the well must be drilled, completed, or equipped to be incapable of producing, from the well more than the following volumes of groundwater:

TABLE 2 – PRODUCTION LIMITATIONS FOR WELLS NOT REQUIRING PRODUCTION PERMITS	
WELL TYPE	**PRODUCTION LIMITATIONS**
Existing and new domestic wells	The amount of water that can be beneficially used without waste for domestic use, or not to exceed 50,000 gpd (35 gpm), whichever is less
Existing and new livestock wells	The amount of water that can be beneficially used without waste for livestock use, or not to exceed 50,000 gpd (35 gpm), whichever is less
Existing and new rig supply wells	The amount of water that can be beneficially used without waste solely for the purpose of supplying water for a rig actively engaged in drilling or exploration operations for an oil and gas well permitted by the RRC, or as stated in an applicable SCDA order under 5.109 and 5.111.
Existing and new monitoring wells	N/A*
§ 36.121 wells	The amount of water that can be beneficially used without waste for the municipal purposes of the municipality

* Monitoring wells are deemed not to produce groundwater for purposes of production permits or well exempt from the duty to obtain a production permit. *See* § 2.003(33).

5.209 Loss of Exemptions; Notice of Changed Circumstances

The owner of a well that is exempt under this subchapter loses the exemption if the nature of the well changes such that the well no longer qualifies for the exemption. Within 30 days of the occurrence of any facts that may cause a well to lose its exemption, the owner of the well shall give written notice to the District of the changed circumstances. If the Board determines that the changed circumstances should cause the well to lose its exemption, then the Board will issue an order declaring the loss of exemption and advise the well owner that the well is subject to District regulation, including the duty to obtain a permit, or other regulation, as may be applicable.

5.211 Well Conversions

(a) If the owner of a well for which a production permit has been issued desires to convert the well to one exempt from the duty to obtain a production permit, the owner must claim the exemption by abandoning the production permit and registering the well as provided for in Subchapter D of this chapter.

(b) If the owner of a well exempt from the duty to obtain a production permit desires to convert the well to one for which a production permit is required, then the owner must apply for a production permit as a new well under § 5.113(b).

Subchapter D Well Registrations

5.301 Purpose
5.303 Applicability
5.305 Well Registration Required; Exception for Production or Drilling Permits; Filing Deadline for Existing Wells
5.307 Contents of Well Registrations
5.309 Amended Registrations
5.311 Basis for Action on Well Registrations; Wells Ineligible for Registration

5.301 Purpose

The purpose of this subchapter is through registrations to provide for the identification, management, regulation, and construction of wells producing groundwater from the aquifer not requiring production permits, and the equipping of existing wells not requiring drilling permits.

5.303 Applicability

This subchapter applies to the owner of any of the following wells:

(1) existing or new domestic wells;

(2) existing or new livestock wells;

(3) existing or new rig supply wells;

(4) existing or new monitoring wells;

(5) § 36.121 municipal wells; and

(6) replacement wells under § 6.125.

5.305 Well Registration Required; Exception for Production or Drilling Permits; Filing Deadline for Existing Wells

(a) Producing groundwater from the aquifer from a new well without a required registration is illegal, wasteful per se, and a nuisance. Unless a person has been issued a production permit under Subchapter B of this chapter, no person may operate or produce groundwater from a new well unless the District has approved a completed well registration for the well.

(b) Performing any of the activities in § 6.105(b) without a drilling permit required by Subchapter B of Chapter 6 is illegal, wasteful per se, and a nuisance. Unless a person has been issued a drilling permit under Subchapter B of Chapter 6, no person may perform any of the activities in § 6.105(b), unless the District has approved a completed well registration, or amended registration, for the well.

(c) Any person required to register a well must file with the District a well registration on a form prescribed by the District.

(d) All persons owning an existing well exempt from obtaining a production permit may file a completed well registration with the District, except as described below.

(1) If an unregistered well is located in an area subject to a SCDA order, the owner will be contacted and the well must be registered.

(2) If the purpose of use of an unregistered existing well is changed to become a rig supply well, the owner must register the well.

(3) If groundwater will be exported from an existing well, the owners must register the well.

5.307 Contents of Well Registrations

A well registration shall include the following information for all new wells and, to the extent available, for existing wells:

(1) Name and Address of Well Owner. The name, physical and mailing addresses, telephone number, fax number, and e-mail address of the owner of the well (or proposed well).

(2) Well Location. A legal description of the location of the well (or proposed well), including: the county, section, block and survey, and the number of feet to the two nearest non-parallel property lines (legal survey lines), or other adequate legal description, in addition to the latitude and longitude of the well or proposed well.

(3) Purpose of Use. The purpose(s) of use stated in definite terms.

(4) Pump Information. Pump size, source of power, and estimated gpm. If the registrant contends that well will be equipped with a pump that is of a different size or type, or is to be operated at a different rate in gpm from the ordinary and usual pumping rates as set out in § 5.407 at Table 3, then the registrant must provide a detailed explanation in support of that contention, and must attach any relevant documents.

(5) Depth. The depth or proposed depth of the well and the depth of the casing.

(6) Internal Diameter of Casing. The internal diameter of the well casing.

(7) Date of Construction. The approximate date that the well was (or will be) constructed.

(8) Well Driller. The name, address, and telephone number of the water well driller who constructed (or will construct) the well, and related information.

(9) Pump Installer. The name, address, and telephone number of the pump installer who equipped (or will equip) the well, and related information.

(10) Reports. A copy of any well report which pertains to the well. An agreement by the registrant that all well reports, including drillers logs, will be filed with the District as required by Subchapter H of this chapter.

(11) Well Site Tract Size. The size of the tract of land on which the well site is located, including the total number of acres owned by the registrant upon which the well is or will be located.

(12) Rig Supply Water Well Information. If the registrant contends that the well (or proposed well) supplies water solely for the use of a rig actively engaged in drilling or exploration operations for an oil and gas well permitted by the RRC, then, the registrant must provide information sufficient for the District to confirm that the person holding the RRC permit for the oil and gas well is responsible for drilling and operating the groundwater well, and that the well is located either on the same lease or field associated with the drilling rig.

(13) Continuing Supervision. A statement that the registration is issued subject to the District's rules and management plan, as they may be amended from time to time, and to the continuing right of the District to manage production of groundwater from the aquifer within the District's boundaries.

(14) Right to Enter Land. A statement that the District may enter the land upon which the well is located under § 36.123, TEXAS WATER CODE, as may be amended; and

(15) Any other information as may be required by the general manager.

5.309 Amended Registrations

If the owner of a registered well intends to change any of the following:

(1) the well's ownership,

(2) person other than the well owner authorized to produce groundwater under the registration,

(3) purpose of use, or

(4) increase its production rate, well size or pump size,

then the well owner must file an amended registration on a form prescribed by the District. Any completed amended registration must be filed with the District at least 30 days prior to making the change. The general manager will review the amended registration and advise the well owner if the proposed changes will require the well owner to obtain a permit from the District.

5.311 Basis for Action on Well Registrations; Wells Ineligible for Registration

(a) The Board shall approve a well registration if the Board finds that:

(1) the well is eligible to be registered;

(2) the registration is complete;

(3) the registration complies with the rules of the District;

(4) all applicable fees and deposits have been paid;

(5) the registrant owns the well;

(6) the registration identifies a proposed or an existing well;

(7) the wellhead is or will be physically located within the boundaries of the District;

(8) the well is designed to produce groundwater from the aquifer;

(9) the production from the well is proposed to be placed to a beneficial use;

(10) the registrant has a legal right to make withdrawals from the well;

(11) the new well location complies with the spacing rules;

(12) the registrant is in compliance with any permits the registrant holds from the District and with District rules;

(13) the well will be installed, equipped, operated, maintained, or closed, as appropriate, to preserve, protect, prevent the pollution, degradation, or harmful alteration of, control and prevent the waste of, prevent the escape of, and achieve the conservation of groundwater in the aquifer;

(14) the registrant intends to install, equip, operate, maintain, and close the well, as appropriate, in accordance with the manufacturer's standards, instructions, or recommendations, as may be applicable;

(15) the well will be equipped with a pump consistent with the ordinary and usual pumping rates as set out in § 5.407 at Table 3, or that it will be equipped with a pump of a different size or type, or operated at a different rate in gpm and a suitable detailed explanation in support has been provided; and

(16) the well will be installed, equipped, operated, maintained, or closed, as appropriate, consistent with Chapters 1901 and 1902, Texas Occupations Code, and Chapter 66,

16 TEXAS ADMINISTRATIVE CODE, relating to the TDLR's rules on water well drillers and water well pump installers, Chapter 27, TEXAS WATER CODE, and Chapter 331, 30 TEXAS ADMINISTRATIVE CODE, as may be amended, relating to the commission's rules on underground injection control, and any other applicable local, state, and federal law.

(b) If the District determines that the well is ineligible to be registered, then the owner of the well shall file an application for a production permit under Subchapter B of this chapter, and/or an application for a drilling permit under Subchapter B of Chapter 6.

Subchapter E Well Spacing

5.401 Purpose
5.403 Applicability
5.405 Drilling Wells at Unapproved Locations Prohibited
5.407 Minimum Spacing Standards
5.409 Spacing of Wells with Different Pump Sizes
5.413 Well Reclassifications; Applications
5.415 Basis for Granting an Application for Well Reclassification
5.417 Waiver of Well Spacing Standards
5.419 Basis for Approval of Waiver of Well Spacing Standards

5.401 Purpose

The purpose of this subchapter is to:

(1) minimize, as far as practicable, the drawdown of the water table of the aquifer underlying the District;

(2) prevent interference between wells;

(3) prevent degradation of water quality; and

(4) prevent waste by regulating the spacing of water wells from property lines or adjoining wells.

5.403 Applicability

(a) Except as provided in subsection (b), this subchapter applies to all new wells drilled within the District after the effective date of this subchapter:

(b) This subchapter does not apply to:

(1) an existing well for which there has been no increase in the production capacity of the well after June 4, 2008; or

(2) new monitoring or recharge injection wells.

5.405 Drilling Wells at Unapproved Locations Prohibited

All wells subject to this subchapter must be drilled within ten yards of a location identified in an approved well registration, or a drilling permit.

5.407 Minimum Spacing Standards

(a) All new wells must be spaced as follows:

TABLE 3 – WELL SPACING STANDARDS AND ORDINARY AND USUAL PUMPING RATES			
INSIDE DIAMETER OF COLUMN PIPE	ORDINARY AND USUAL PUMPING RATES IN GPM	MINIMUM DISTANCE FROM NEAREST WELL OR AUTHORIZED WELL SITE	MINIMUM DISTANCE FROM NEAREST PROPERTY LINE
Less than 2”	Up to 17.5	N/A	50 feet
2” domestic use	17.6 to 35	100 yards	50 feet
2”	17.6 to 35	100 yards	50 yards
3”	36 to 70	150 yards	75 yards
4”	71 to 265	200 yards	100 yards
5”	266 to 390	250 yards	125 yards
6”	391 to 560	300 yards	150 yards
8”	561 to 1,000	440 yards	220 yards
10” & 11”	1,001 to 1,200	600 yards	300 yards
12” or larger	1,201 to 2,000	1000 yards	0.5 miles

(b) For existing wells for which production capacity is increased from the production capacity on June 4, 2008, the well must comply with the spacing standards described in 5.407(a) Table 3 at the increased capacity, or, prior to modification of the well to increase the capacity, the well owner must obtain an approved waiver of well spacing standards.

5.409 Spacing of Wells with Different Pump Sizes

When determining the applicable well spacing requirements for a well, and the relevant nearest authorized well sites are equipped with pumps of a different size, then the minimum spacing between the well and the authorized well sites shall be equal to the sum of one-half (1/2) of the minimum distance between the authorized well sites as if they were equipped with pumps of the same size as set forth in Table 3 in § 5.407. (For example, 8” = 440; 4”=200; 440 + 200 divide by two = 320 yards from the nearest authorized location.)

5.413 Well Reclassifications; Applications

Any person seeking to reclassify a well for purpose of the spacing requirements in this subchapter based on actual pumping rates (instead of the ordinary and usual pump rates in Table

3 in § 5.407) may file with the District an application for well reclassification on a form prescribed by the District.

5.415 Basis for Granting an Application for Well Reclassification

The Board shall grant an application for well reclassification if the Board finds that:

(1) the application is complete;

(2) the application complies with the rules of the District;

(3) all applicable fees and deposits have been paid;

(4) the applicant owns the well;

(5) the purpose is to reclassify a well in order to account for the actual pumping rates which will be lower than the ordinary and usual pump rates in Table 3 in § 5.407 thereby allowing the drilling of additional wells; and

(6) after reclassification, the spacing requirements in Table 3 in § 5.407 will be complied with.

5.417 Waiver of Well Spacing Standards

Any person seeking a variance from the well spacing rules in this subchapter may file with the District a waiver of well spacing standards on a form prescribed by the District.

5.419 Basis for Approval of Waiver of Well Spacing Standards

The Board shall approve a waiver of well spacing standards if the Board finds that:

(1) the waiver form is complete;

(2) the waiver complies with the rules of the District;

(3) the person obtaining the waiver owns the well for which the waiver is sought;

(4) the applicant is in compliance with any permits the applicant holds from the District and with District rules;

(5) the applicant has obtained a waiver of well spacing standards from applicable third parties;

(6) a statement that the person executing the waiver does so with full knowledge of its import and effect; and

(7) the applicant specifically identifies the rule to which the waiver applies.

Subchapter F Meters

5.501 Purpose
5.503 Applicability
5.505 Duty to Install Meter; Commingling of Water; Meter Impairment Prohibited
5.507 Meter Installation, Ownership, Operation, Maintenance, and Cost
5.509 Registration of Existing Meters
5.511 Contents of Meter Registrations
5.513 Approved Meters
5.515 Notice of Meter Installation; Inspections
5.517 Basis for Approval of Meter Installations or Registrations
5.519 Notice of Condition Affecting Accuracy of Meters; Corrective Action
5.521 Notice of Removal or Disabling of Meters
5.523 Meter Reading

5.501 Purpose

The purpose of this subchapter is to set standards for the installation, modification, operation and maintenance of meters, provide a system for monitoring the quantity of groundwater produced from the aquifer, and provide a basis to ensure compliance with groundwater production limitations.

5.503 Applicability

This subchapter applies to the following wells or activities:

(1) the exportation of groundwater; and

(2) the production of groundwater from the following wells:

(A) new large production wells;

(B) two or more new small production wells, or any combination of new small and new large production wells, that commingle water and have combined production that equals or is greater than 200 gpm;

(C) existing or new small production wells determined by the Board to be designated within an SCDA under § 5.109(c); and

(D) existing large production wells determined by the Board to be designated within an SCDA under § 5.109(c).

5.505 Duty to Install Meter; Commingling of Water; Meter Impairment Prohibited

(a) Producing groundwater from the aquifer from a well, or exporting groundwater outside the District's boundaries, without a required meter is illegal, wasteful per se, and a nuisance. Unless a person has installed a properly functioning meter as required under this subchapter, no person may produce groundwater from an existing or new well, or export groundwater outside the District's boundaries. The owner of the well, or export pipeline, shall install a meter to measure the flow rate and cumulative amount of groundwater produced from the well.

(b) Meters installed on new large production wells, or export pipelines, shall be installed and in good working order prior to commencing production from the well, or exportation.

(c) For new small production wells or any combination of small and large production wells that commingle water, a meter shall be installed and in good working order at a point adequate to accurately measure the commingled water prior to commencing production from each well. If combined production exceeds 200 gpm, then a meter will be required on all wells producing water for the system.

(d) No action shall be taken that disables or impairs a meter from accurately measuring and recording the flow rate and cumulative amount of groundwater produced from a well, or the exportation of groundwater from the District.

(e) In addition to the meter requirements of this section, the District may own, install, operate and maintain a meter and collect meter readings from produced water at the point of export from the District.

5.507 Meter Installation, Ownership, Operation, Maintenance, and Cost

Well owners shall be responsible for the installation, operation, maintenance, and cost of the meter. Each meter shall be installed, operated, and maintained in accordance with the manufacturer's standards, instructions, or recommendations.

5.509 Registration of Existing Meters

(a) Owners of any well already equipped with a meter on the effective date of this subchapter must register the meter with the District on a meter registration form prescribed by the District. Meter registrations must be filed with the District no later than 180 days from the effective date of this subchapter. The owners of pre-existing meters that have been approved by the District under prior administrative action need not file another meter registration.

(b) All meters installed prior to the effective date of this subchapter may be inspected by the District for compliance with this subchapter. If the meter complies, the general manager will approve the meter in writing and advise the owner thereof. If the meter does not comply, the general manager will issue a notice of deficiency and direct the owner of the meter to install a new meter, or modify the existing meter, in compliance with this subchapter.

5.511 Contents of Meter Registrations

Meter registrations shall contain the following information:

(1) Name and Address of Owner. The full name, physical and mailing address, telephone number, fax number, and e-mail address of the owner of the well on which the meter is installed.

(2) Well Address. The physical address of the property upon which the well on which the meter is installed is located.

(3) Well Location. A legal description of the location of the well on which the meter is installed including: the county, section, block and survey and the number of feet to the two nearest non-parallel property lines (legal survey lines); or other adequate legal description approved by the District.

(4) Map. A city or county map with the property where the well on which the meter is installed is highlighted and the location of the well pinpointed.

(5) Status of Well. The identification of the category of well as derived from the District's well classification system.

(6) Purpose of Use. The purpose(s) of use of groundwater withdrawn from the well on which the meter is installed.

(7) Description of the Meter. A description of the meter including:

(A) a description of the method used to measure the flow rate;

(B) a description of the method used to measure the cumulative amount of groundwater withdrawn from the aquifer;

(C) its size;

(D) the units in which the measurements will be recorded;

(E) a statement describing its accuracy;

(F) a description of its mechanical design and operation;

(G) a statement of whether the totalizer is resettable or nonresettable, its lockbox capability, and the periods of time for which the date is measured;

(H) the date that the meter was last calibrated and who calibrated it;

(I) the maximum cumulative amount of groundwater withdrawn from the aquifer that the totalizer is capable of measuring;

(J) a description of its instantaneous readout capabilities for flow rate and total quantity measured and the units in which the data is measured;

(K) a statement that the meter was installed according to the manufacturer's specifications;

(L) the discharge diameter, and whether the meter has an instantaneous readout for both flow rate and total quantity measured;

(8) The date or approximate date that the meter was installed.

(9) The manufacturer, brand name, and serial number.

(10) Any other information as may be required by the general manager.

5.513 Approved Meters

(a) Types of meters approved for installation are as follows:

(1) internal impeller meters;

(2) magnetic meters; and

(3) time-delay ultrasonic meters.

(b) The types of flow meters prohibited from installation are as follows:

(1) doppler ultrasonic flow meters;

(2) pilot tube meters; and

(3) open discharge meters.

5.515 Notice of Meter Installation; Inspections

No new meter may be installed, nor an existing meter modified, prior to giving 5-day written notice to the general manager on a form prescribed by the District. The general manager may inspect and approve the meter installation or modification. For the purpose of this subchapter, the term "modify" in connection with a meter means to make any physical change to the meter other than standard maintenance.

5.517 Basis for Approval of Meter Installations or Registrations

The general manager shall approve a meter installation or registration if the general manager finds that:

(1) the meter has a certified error of not greater than ± five percent accuracy for flow rate and cumulative amount of groundwater produced;

(2) the meter meets the American Water Works Association C704-92 for design, materials, and accuracy;

(3) the meter provides for a non-resettable totalizer, or lock box with resettable digital readout;

(4) the meter provides for a non-resettable mechanical or electronic flow volume accumulator that reads in gallons, acre-feet, or barrels;

(5) the meter provides for the totalizing register of the meter to have the capacity to record the total quantity of groundwater produced from the aquifer for at least one full year;

(6) if equal to or greater than a discharge diameter of 4.0 inches, the meter has an instantaneous readout for both flow rate and total quantity measured; and

(7) if used for the distribution of potable water, the meter shall be American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 certified.

5.519 Notice of Condition Affecting Accuracy of Meters; Corrective Action

If at any time a well owner has reason to believe that a condition may exist that affects the accuracy of a meter, then the owner shall, within seven days of learning of the fact(s), notify the general manager in writing that the accuracy of the meter may be in question. The general manager may conduct an investigation and, if facts warrant, direct the owner of the meter, at the owner's cost, to evaluate and test the accuracy of the meter and take appropriate corrective action, including replacement, to restore the accuracy and proper working condition of the meter in conformance with this subchapter.

5.521 Notice of Removal or Disabling of Meters

(a) No person shall remove, or otherwise disable, a meter, including for routine maintenance, unless the owner gives the District written notice on a form prescribed by the District. Except in cases of routine maintenance, such notice must be approved in writing by the general manager before the meter is removed or disabled.

(b) A meter may be removed, or otherwise disabled, only by the owner of the meter or his authorized representative.

(c) During a period that a meter is removed or otherwise disabled, groundwater may not be produced from the well unless the general manager approves a temporary alternative measuring method.

5.523 Meter Reading

It is the duty of each owner of each well to accurately read their meter on a monthly and annual basis and file the results with the District on the appropriate form under Subchapter H of this chapter.

Subchapter G Groundwater Exportation Permits

5.601 Purpose
5.603 Applicability
5.605 Authorized Uses
5.607 Groundwater Exportation Permits Required; Applications
5.609 Basis for Action on Groundwater Exportation Permit Applications
5.611 Groundwater Exportation Permit Terms; Renewal; Applications
5.613 Basis for Action on Groundwater Exportation Permit Renewal Applications
5.615 Initial Term of a Groundwater Exportation Permit; Extensions; Applications
5.617 Basis for Action on Applications to Extend Initial Term of Groundwater Exportation Permits
5.619 Contents of Groundwater Exportation Permits
5.621 Review of Groundwater Exportation Permits; Limitation on Exportation
5.623 Standard Permit Conditions
5.625 Recordation of Groundwater Exportation Permits
5.627 Groundwater Production in Violation of Permit Prohibited; Permit Transfers and Amendments; Applications; Exceptions
5.629 Basis for Granting Applications to Amend Groundwater Exportation Permits
5.631 Transfer of Ownership; Notice
5.633 Effective Date of Transfers or Amendments

5.601 Purpose

The purpose of this subchapter is to provide for the management through permits of the exportation of groundwater outside the District's boundaries.

5.603 Applicability

(a) Except as provided in subsection (b), this subchapter applies to any person who seeks to export groundwater produced from a well within the District's boundaries to a place of use outside the District's boundaries.

(b) This subchapter does not apply to an export arrangement in effect prior to March 2, 1997, and continuing thereafter for which no increase in the export authorization is sought or to water used for emergency purposes, such as for fire fighting, transported by truck out of the District on a per incident basis or for occasional transport by truck out of the District of water for support of county or state construction or paving projects.

5.605 Authorized Uses

An exportation permit may be issued by the District for one or more of the following beneficial uses provided for in § 5.105.

5.607 Groundwater Exportation Permits Required; Applications

(a) Exporting groundwater produced from the aquifer from any well within the District's boundaries without a required groundwater exportation permit required by this subchapter is illegal, wasteful per se, and a nuisance.

(b) Any person seeking to export groundwater to a place of use outside of the District's boundaries is required to obtain a groundwater exportation permit from the District and file with the District an application to export groundwater on a form prescribed by the District.

5.609 Basis for Action on Groundwater Exportation Permit Applications

The Board shall grant an application for a groundwater exportation permit if the Board finds that:

(1) the application is complete;

(2) the application complies with the rules of the District;

(3) all applicable fees and deposits have been paid;

(4) the wellhead from which groundwater is produced for export is or will be physically located within the District's boundaries;

(5) the water to be exported is proposed to be placed to a beneficial use;

(6) the place of use (the receiving area) is identified specifically and located outside the District's boundaries;

(7) the end user(s) at the proposed place of use (receiving area) will comply with all applicable duties to conserve water in accordance with applicable law, including the adoption and implementation of a water conservation plan, if required;

(8) the end user(s) at the proposed place of use (receiving area) has adopted and implemented a drought management plan, if required by applicable law;

(9) the applicant is in compliance with any permits the applicant holds from the District and with District rules;

(10) the applicant owns or has applied for a production permit issued by the District, the applicant owns a well registration on file with the District, or the applicant purchases water from the owner of a production permit under a water supply contract;

(11) the activities for which the groundwater will be beneficially used will be constructed, operated, and maintained to preserve, protect, prevent the pollution, degradation, or

harmful alteration of, control and prevent the waste of, prevent the escape of, and achieve the conservation of groundwater in the aquifer;

(12) there is insufficient water available at, or proximate to, the proposed place of use (receiving area) to substantially meet the actual or projected demand at the receiving area during the proposed term of the groundwater export permit;

(13) the exportation will not have an unreasonable adverse effect on aquifer conditions, depletion, or water quality;

(14) the exportation will not have an unreasonable adverse effect on existing permittees, or other groundwater users within the District;

(15) the exportation is consistent with the Region A Regional Water Plan of the Panhandle Regional Planning Group approved by the TWDB;

(16) the proposed exportation is related to an actual project for which, at a minimum, a water supply contract has been secured by the applicant; and

(17) the exportation is consistent with the District's management plan, as may be amended.

5.611 Groundwater Exportation Permit Terms; Renewal; Applications

(a) The permit term for a groundwater exportation permit is as follows:

(1) at least three years, if construction of a conveyance system in the District's boundaries has not been initiated prior to the issuance of the permit; or

(2) at least 30 years, if construction of a conveyance system has been initiated in the District's boundaries prior to the issuance of the permit.

(b) A groundwater exportation permit may be renewed. Any person seeking the renewal of a groundwater exportation permit must file with the District an application to renew on a form prescribed by the District. The application must be filed with the District no later than one year prior to the expiration of the permit term.

5.613 Basis for Action on Groundwater Exportation Permit Renewal Applications

The Board shall grant an application to renew a groundwater exportation permit if the elements in § 5.609 are established.

5.615 Initial Term of a Groundwater Exportation Permit; Extensions; Applications

A groundwater exportation permit shall expire and be void and of no force or effect if the construction of the conveyance system in the District's boundaries is not commenced within three

years from the date of issuance of the permit, or upon the expiration of any extensions of the initial term. The Board, for good cause, may extend the initial term of a groundwater exportation permit for up to two additional 3-year periods. In order to extend the period, the permittee must file with the District an application to extend the initial term of the permit on a form prescribed by the District. The application must be filed with the District one year before the expiration of the original 3-year initial term, or the first extension period, as appropriate.

5.617 Basis for Action on Applications to Extend Initial Term of Groundwater Exportation Permits

The Board shall grant an application to extend the initial term of a groundwater exportation permit if the Board finds that:

(1) the application is complete;

(2) the application complies with the rules of the District;

(3) all applicable fees and deposits have been paid;

(4) the applicant is in compliance with any permits the applicant holds from the District and with District rules; and

(5) a reasonable basis for the need for the extension is established and demonstrates that the failure to complete construction of a conveyance system is not due to the permittee's own lack of due diligence.

5.619 Contents of Groundwater Exportation Permits

A groundwater exportation permit shall include the following terms and conditions:

(1) the name, physical address, mailing address, and telephone number of the permittee;

(2) the name, physical address, mailing address, and telephone number of the authorized representative, if any, of the permittee;

(3) if the permittee owns the well from which the production for exportation is made, then the production permit number or well registration number of the well, as appropriate;

(4) if the permittee does not own the well from which the production for exportation is made, then the name, physical address, mailing address and telephone number of the well owner, and the production permit number or well registration number of the well, as appropriate;

(5) if not the permittee, the name, physical address, mailing address and telephone number of the owner of the land on which the well is located;

(6) the permit term, including dates of issuance, effectiveness, and termination;

(7) the initial term during which construction of the conveyance system is required to be commenced;

(8) the purpose of use for which the water produced from the well is to be used;

(9) a requirement that the water produced under the permit be put to beneficial use without waste;

(10) the specific location of the place of use outside the District's boundaries;

(11) the maximum amount of production in acre-feet per annum by purpose of use, that may be exported from the District, and any conditions or restrictions relative thereto;

(12) appropriate meter information;

(13) reporting requirement; and

(14) other terms and conditions as may be required by the Board.

5.621 Review of Groundwater Exportation Permits; Limitation on Exportation

The Board shall periodically review the amount of water that is authorized for exportation under a groundwater exportation permit and reduce or otherwise limit the amount of exportation if additional factors considered in § 5.609 warrant the limitation. The review will take place every five years or whenever the holder of a groundwater exportation application files an application to renew or amend the permit as provided in §§ 5.611 and 5.627.

5.623 Standard Permit Conditions

All groundwater exportation permits shall be issued with and subject to the following conditions:

(1) the duty to beneficially use water and avoid waste;

(2) the duty to conserve water in accordance with applicable law, and comply with either the District's water conservation plan, as may be amended;

(3) the duty to file all applicable reports with the District and other appropriate federal, state, or local governments;

(4) the duty to reduce water consumption during times of drought in accordance with applicable law, and comply with either the District's drought management plan, as may be amended from time to time, or the permittee's plan approved by the District, as appropriate;

(5) the District's management plan, as may be amended from time to time;

(6) the duty to use all reasonable diligence to protect the groundwater quality of the aquifer;

(7) the duty to comply with the District's rules as may be amended from time to time;

(8) permit review, renewal, or extension conditions;

(9) the continuing right of the District to supervise the depletion of the aquifer;

(10) installation, equipping, operation, and maintenance of all meters in accordance with the District's rules;

(11) the duty to comply with the District's rules relating to transfers and amendments of permits as may be amended from time to time;

(12) the duty to pay and be current in the payment of all applicable fees;

(13) the duty to record the permit;

(14) the duty to give notice to District of any changes in name, address, or telephone number of the permittee, or the authorized representative, or the landowner, as may be appropriate;

(15) the duty to comply with all of the terms and conditions of the permit;

(16) the right of the District to enter land under § 36.123, TEXAS WATER CODE, as may be amended; and

(17) any other conditions as the Board may deem appropriate.

5.625 Recordation of Groundwater Exportation Permits

Groundwater exportation permits shall be recorded in accordance with § 5.129.

5.627 Groundwater Production in Violation of Permit Prohibited; Permit Transfers and Amendments; Applications; Exceptions

(a) No holder of a groundwater exportation permit may produce groundwater from the aquifer inconsistent with the permit, and any such production is illegal, wasteful per se, and a nuisance. No change in the production and use of groundwater under a permit may be made without the prior approval of a permit amendment issued by the Board.

(b) This section applies to the owners of groundwater exportation permits seeking to transfer or change their permit in the following respects:

(1) purpose of use;

(2) place of use; or

(3) the total volume of groundwater exported in acre-feet per annum.

(c) Any person seeking to transfer or change their permit as provided in subsection (b) must file with the District an application to amend on a form prescribed by the District.

5.629 Basis for Granting Applications to Amend Groundwater Exportation Permits

The Board shall grant an application to amend a permit, if the elements provided for in § 5.609 are established.

5.631 Transfer of Ownership; Notice

(a) The ownership of a groundwater exportation permit may be transferred separately from the ownership of the place of use or point of withdrawal. The owner of an exportation permit may authorize a person other than the permit owner to export groundwater under the permit.

(b) Within 30 days after transfer of the ownership of a groundwater exportation permit, or lease of the right to export thereunder, the transferee shall file with the District a notice on a form prescribed by the District. For transfers of ownership, if the notice is complete, and the transfer is otherwise in compliance with this subchapter, the general manager shall reflect the new ownership and issue an amended permit to the transferor, transferee, or both, as may be appropriate. For leases, the general manager will update the District's permit records to reflect the lease.

5.633 Effective Date of Transfers or Amendments

No permit transfer or amendment is effective until the application or notice has been approved by the Board.

Subchapter H Reporting

5.701 Purpose
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5.721 Water Level Reports

5.701 Purpose

The purpose of this subchapter is to identify the reports that are required to be filed with the District. The reports are intended to collect information the District deems necessary for the drilling, equipping, and completion of water wells, the production and use of groundwater from the aquifer, the prevention and monitoring of the degradation of water quality and compliance monitoring. The reports will better enable the District to manage the aquifer.

5.703 Applicability

This subchapter applies to the owners of wells set out in each separate rule in this subchapter.

5.705 Groundwater Production During Period of Nonreporting Prohibited

Except as may be necessary for the drilling and testing of a well and its equipment, no person may produce groundwater from any well within the District, unless all applicable reports have been timely filed with the District.

5.707 General Requirements Applying to All Reports

All reports shall be filed on forms prescribed by the District. The person completing a report shall fill in the form to the best of his knowledge and ability in accordance with the instructions that accompany the form. The general manager will mail District report forms to applicable well owners at appropriate times of the year to allow for the timely filing of the report. The forms will also be provided to anyone upon request.

5.709 Groundwater Production and Use Reports

Owners of wells required to be metered under Subchapter F of this chapter shall accurately read their meter on a monthly and annual basis. The results shall be filed with the District in 1,000 gallon units on a groundwater production and use report form. The report must reflect the

groundwater produced from each well during the preceding calendar year, and the beneficial use made of the groundwater. The completed report must be filed with the District no later than January 15th of each year for the preceding year.

5.711 Well Drilling and Completion; Equipping; Plugging Reports; Driller's Logs

(a) Any person who drills or completes a well shall file with the District the well drilling and completion report form prescribed by the TDLR (Form No. 001 WWD entitled "Well Reports", which also contains the information reported in the driller's log), as may be amended. The completed report must be filed directly with the District or through the TDLR's Texas Well Report Submission and Retrieval System no later than 60 days after completion of the well.

(b) Any person who equips a well shall file with the District a well equipping report form prescribed by the TDLR (Form No. 001 WWD entitled "Well Reports"), as may be amended. The completed report must be filed directly with the District or through the TDLR's Texas Well Report Submission and Retrieval System no later than 60 days after the equipping of the well.

(c) Any person who plugs a well shall file with the District a well plugging report form prescribed by the TDLR (Form No. 004 entitled "Water Well Driller Plugging Reports"), as may be amended. The completed report must be filed directly with the District or through the TDLR's Texas Well Report Submission and Retrieval System no later than 60 days after the plugging of the well.

5.713 Water Quality Reports

Each owner of a water quality monitoring well shall conduct at least one water quality sample and analysis event every even year and file the results with the District by providing a copy of the full lab report. The results of any water quality sampling, whenever done, must be reported to the District within 30 days of receiving the results. Additionally, the Board may order water quality sampling on a more frequent basis as may be appropriate. The completed report must be filed with the District no later than December 31st of each even year, or on a more frequent basis as may be required by the Board.

5.715 SCDA Production Reports

Each owner of a well required to be metered under Subchapter F and subject to SCDA order shall accurately read their meter on a monthly basis. The results shall be filed with the District in 1,000 gallons units or acre-feet on an SCDA production report form prescribed by the District. The report must reflect the groundwater produced from each well during the preceding month, water levels, if known, and the beneficial use made of the groundwater. The completed report must be filed with the District no later than the 15th day after the close of the prior month.

5.717 Recharge Injection Well Reports

Each owner of a recharge injection well shall file a recharge injection well report on a form prescribed by the District. The completed report must be filed with the District no later than the

15th day of each month for the preceding month. The report must indicate for the previous calendar month the following:

(1) operation and maintenance activities occurring at the well facility, other than routine activities;

(2) recharge rates and volumes;

(3) identify the source water;

(4) water quality of the source water;

(5) water quality of the aquifer;

(6) any known or anticipated negative impacts on the water quality of the aquifer; and

(7) an assessment of the project in terms of protecting the water quality of the aquifer.

5.719 Groundwater Exportation and Use Reports

Each person exporting groundwater outside the District's boundaries shall accurately read their meter and file with the District on a quarterly basis as follows: for the 1st quarter, no later than April 15th; for the 2nd quarter, no later than July 15th; for the 3rd quarter, no later than October 15th; and for the 4th quarter, no later than January 15th. The results shall be filed with the District on a groundwater exportation and use report form prescribed by the District. The report must reflect the total volume of groundwater produced and the total volume of groundwater exported from the District during the preceding month, the beneficial use made of the water and identify the well(s) within the District from which the groundwater was produced.

5.721 Water Level Reports

The owner of any well may take accurate water level readings between January 1st and December 31st of every year and file the results with the District on a water level report form. The report must reflect the dates the actual water level for each well that was measured in feet above mean sea level or depth to water, and the method by which the measurement was taken. If prepared, the completed report must be filed with the District no later than January 15th of each year for the preceding year's data.

CHAPTER 6 WELL MANAGEMENT

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Subchapter A General Provisions

6.001 Purpose
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6.007 Well Construction and Pump Installation Standards

6.001 Purpose

The purpose of this chapter is to set standards for the installation, equipping, operation, maintenance, and closure of wells located inside the District's boundaries in order to:

(1) preserve and protect the aquifer;

(2) prevent the pollution, degradation, or harmful alteration of the character of the groundwater in the aquifer;

(3) control and prevent the waste of groundwater in the aquifer;

(4) achieve water conservation;

(5) prevent the escape of groundwater from the aquifer to any other stratum not containing groundwater; and

(6) recharge the aquifer.

6.003 Responsibility for Well Management

It is the responsibility of landowners, well owners, lessees, pump installers, and water well drillers to install, equip, operate, maintain, and close wells in accordance with the manufacturer's standards, instructions, or recommendations, and District rules as may be applicable.

6.005 Well Management to Protect Groundwater Quality

All landowners, well owners, lessees, pump installers, and water well drillers shall use reasonable diligence and conform to this chapter in the drilling, installation, equipping, operation, maintenance, and closure of their wells in order to prevent the pollution or harmful alteration of the character of the water in the aquifer.

6.007 Well Construction and Pump Installation Standards

(a) All existing or new wells located within the District's boundaries shall be installed, equipped, operated, maintained, and closed consistent with Chapters 1901 and 1902, Texas Occupations Code, and Chapter 66, 16 TEXAS ADMINISTRATIVE CODE, as may be amended, relating to the TDLR's rules on water well drillers and water well pump installers, irrespective of whether the well is required to obtain a drilling permit from the District.

(b) Any existing well or pump that is altered, reworked, redrilled, reequipped or replaced must be done so in accordance with the standards in subsection (a), irrespective of whether the well owner is required to obtain a drilling permit from the District.

Subchapter B Well Drilling Permits

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6.129 Transfer of Drilling Permit Prohibited

6.101 Purpose

The purpose of this subchapter is to provide for the management through permits of the construction of water production wells.

6.103 Applicability

This subchapter applies to all wells except the following:

(1) Existing or new domestic wells;

(2) Existing or new livestock wells;

(3) Existing or new rig supply wells;

(4) § 36.121 municipal wells;

(5) exploratory holes; and

(6) a well that is temporarily and solely used to supply water for a rig that is actively engaged in drilling a groundwater production well which is, or will be, permitted by the District.

As used herein, the term "temporarily" shall mean a time period not to exceed 180 days, except that this 180-day period may be extended by the District until the well that is, or will be, permitted by the District is complete.

6.105 Drilling Permits Required; Applications; Exception for Registered Wells

(a) Drilling a well without a drilling permit required by this subchapter is illegal, wasteful per se, and a nuisance.

(b) No person may undertake, perform, conduct, or commence any of the following activities on a well within the District's boundaries prior to obtaining a drilling permit from the District:

(1) construct, install, drill, equip, or complete a new well, or replace an existing well;

(2) alter an existing well by re-construction, re-installation, re-drilling, re-working, re-equipping, capping, plugging, or closing an existing well, other than routine maintenance, if these activities increase the production capabilities of the well to more than its authorized or permitted production rate;

(3) install, equip, or complete a pump on an existing or new well; and

(4) alter an existing pump by re-installing, re-equipping, or re-completing an existing pump on an existing well other than routine maintenance.

(c) Any person seeking to perform any of the activities identified in subsection (b) must file with the District an application for a well drilling permit on a form prescribed by the District.

(d) No well driller or pump installer shall perform any activity in subsection (b) without first obtaining a copy of the well drilling permit. The well drilling permit must be kept at the well site while at any time work is being done on the well.

6.107 Basis for Action on Drilling Permit Applications

The Board shall grant an application for a well drilling permit if the Board finds that:

(1) the application is complete;

(2) the application complies with the rules of the District;

(3) all applicable fees and deposits have been paid;

(4) the applicant owns the well;

(5) the application identifies a proposed or an existing well;

(6) the wellhead is or will be physically located within the boundaries of the District;

(7) the well is designed to produce groundwater from the aquifer;

(8) the withdrawals are proposed to be placed to a beneficial use;

(9) the applicant has a legal right to make withdrawals from the well;

(10) the well location complies with the spacing rules;

(11) the applicant is in compliance with any permits the applicant holds from the District and with District rules;

(12) the well will be installed, equipped, operated, maintained, or closed, as appropriate, to preserve, protect, prevent the pollution, degradation, or harmful alteration of, control and prevent the waste of, prevent the escape of, and achieve the conservation of groundwater in the aquifer;

(13) the applicant intends to install, equip, operate, maintain, and close the well, as appropriate, in accordance with the manufacturer's standards, instructions, or recommendations, as may be applicable;

(14) the well will be equipped with a pump consistent with the ordinary and usual pumping rates as set out in § 5.407 at Table 3, or that it will be equipped with a pump of a different size or type, or operated at a different rate in gpm; and

(15) the well will be installed, equipped, operated, maintained, or closed, as appropriate, consistent with Chapters 1901 and 1902, Texas Occupations Code, and Chapter 66, 16 TEXAS ADMINISTRATIVE CODE, relating to the TDLR's rules on water well drillers and water well pump installers, Chapter 27, TEXAS WATER CODE, and Chapter 331, 30 TEXAS ADMINISTRATIVE CODE, as may be amended, relating to the commission's rules on underground injection control, and any other applicable local, state, and federal law.

6.109 Drilling Permit Terms; Extensions; Applications

A drilling permit shall expire and be void and of no force or effect if the well is not completed within 120 days from the date of issuance of the permit, or upon the expiration of any permit extension. The Board, for good cause, may extend the term of a drilling permit for up to two additional 120-day periods. In order to extend the period, the permittee must file with the District an application to extend the term on a form prescribed by the District. The application must be filed with the District during the original 120-day term, or the first extension period, as appropriate.

6.111 Basis for Action on Applications to Extend Permit Term

The Board shall grant an application to extend a drilling permit term if the Board finds that:

(1) the application is complete;

(2) the application complies with the rules of the District;

(3) all applicable fees and deposits have been paid;

(4) the applicant filed the original drilling permit application;

(5) the applicant is in compliance with any permits the applicant holds from the District and with District rules; and

(6) a reasonable basis for the need for the extension is established and demonstrates that the failure to complete is not due to the permittee's own lack of due diligence.

6.113 Contents of Drilling Permits

Well drilling permits shall contain the following:

(1) name, address and telephone number of the permittee;

(2) name, address and telephone number of an authorized representative, if any, of the permittee;

(3) permit term;

(4) purpose of use of the well;

(5) maximum rate of withdrawal in gallons per minute;

(6) legal description of the location of the well, including, county; section, block and survey; latitude and longitude, or other adequate legal description, as may be required by the District;

(7) identification of the legal authority of the permittee to produce groundwater from the well;

(8) the groundwater source;

(9) size of the pump, pumping rate, and pumping method;

(10) meter specifications, if any;

(11) diameter of casing, total depth of casing, depth of grout, total well depth, and other well installation specifications, as appropriate;

(12) any conservation-oriented methods of drilling prescribed by the District;

(13) all applicable reporting requirements;

(14) installation and completion schedule;

(15) a requirement that the permittee must file all applicable reports with the District prior to the production of water from the well, except for such production necessary to the drilling and testing of the well;

(16) a requirement that the permittee use reasonable diligence to protect groundwater quality and that all well plugging laws will be followed at the time of well closure;

(17) a copy of the approved water well closure plan, if any, or a requirement that the permittee will comply with well plugging laws and report closure to the TDLR and the District; and

(18) any other appropriate conditions as determined by the Board.

6.115 Standard Permit Conditions

All drilling permits shall be issued with and subject to the following conditions:

(1) the duty to properly close (cap or plug) all wells in accordance with applicable law, and comply with either the District's well closure plan, if any, as may be amended from time to time, or the permittee's plan approved by the District, as appropriate;

(2) the duty to file all applicable reports with the District, and other appropriate federal, state, or local governments;

(3) the duty to use diligence to protect the groundwater quality of the aquifer;

(4) the duty to comply with the District's rules as may be amended;

(5) permit review, or extension conditions;

(6) the duty to locate all wells, and confirm the actual location with the proposed location in the application or as provided for in the permit, consistent with the District's well spacing rules, prior to the production from any wells identified in the permit or application;

(7) the continuing right of the District to supervise and manage groundwater production and the depletion of the aquifer;

(8) installation, equipping, operation, maintenance, and closure of all wells in accordance with the District's rules, and other applicable federal, state, and local law;

(9) installation, equipping, operation, and maintenance of all meters in accordance with the District's rules;

(10) the duty to pay and be current in the payment of all applicable fees;

(11) the duty to give notice to District of any changes in name, address, or telephone number of the permittee, or the authorized representative, or the landowner, as may be appropriate;

(12) the duty to comply with all of the terms and conditions of the permit;

(13) the right of the District to enter land under § 36.123, TEXAS WATER CODE, as may be amended; and

(14) any other conditions as the Board may deem appropriate.

6.117 Unlicensed or Unregistered Well Drillers or Pump Installers Prohibited

Within the District's boundaries, no person may engage in any of the activities identified in § 6.105(b) unless the person first:

(1) holds a well driller's license issued by the TDLR under Chapter 1901, TEXAS OCCUPATIONS CODE; and Chapter 66, 16 TEXAS ADMINISTRATIVE CODE, as may be amended, relating to the TDLR's rules on water well drillers and water well pump installers;

(2) holds a pump installer's license issued by the TDLR under Chapter 1902, TEXAS OCCUPATIONS CODE; and Chapter 66, 16 TEXAS ADMINISTRATIVE CODE, as may be amended, relating to the TDLR's rules on water well drillers and water well pump installers; and

(3) registers with the District on a form prescribed by the District.

6.119 Contents of Well Drillers or Pump Installers Registrations

A well driller or pump installer registration approved by the District shall include the following information:

(1) Name and Address of Driller or Installer. The full name, physical and mailing addresses, telephone number, fax number and e-mail address of the person who desires to operate as a water well driller or pump installer within the District's jurisdiction.

(2) Name and Address of Company. The full name, physical and mailing addresses, telephone number, fax number and e-mail address of the company by whom the well driller or pump installer is employed.

(3) License. A true and correct copy of a valid and current water well driller's or pump installer's license issued by the TDLR.

(4) Any other information as may be required by the general manager.

6.121 Notice of Condition Affecting Groundwater Quality; Corrective Action

If at any time a well owner, lessee, or operator has reason to believe that a well condition may exist that may cause the pollution, degradation, or harmful alteration of the character of the groundwater in the aquifer, then the owner shall, within forty-eight (48) hours of learning of the fact(s), notify the general manager in writing of the well condition. The general manager may conduct an investigation and, if facts warrant, direct the owner of the well, at the owner's cost, to evaluate and test the well conditions and take appropriate corrective action, including replacement, to bring the well into proper working condition in conformance with this chapter.

6.123 Notice of Commencement of Well Installation

No later than 3 days prior to commencement of the activities authorized in the well drilling permit, the permittee shall give notice to the District of the intent to commence.

6.125 Replacement of Wells

Within 30 days of the completion of a replacement well, the former well shall be:

(1) plugged;

(2) capped; or

(3) re-equipped to meet spacing requirements applicable to a domestic well or a livestock well and registered under Subchapter D of Chapter 5.

6.127 Special Well Construction Standards for Red Bed Formation Wells

(a) In addition, to the references in this section, all water wells, or exploratory holes according to the standards in § 76.1001, 16 TEXAS ADMINISTRATIVE CODE, as may be amended, drilled through the aquifer into the underlying Red Bed Formation shall be completed to eliminate any movement of Ogallala water into the Red Bed Formation.

(b) If groundwater is proposed to be produced from a well completed in the Red Bed Formation, then casing must be set through the Ogallala aquifer and into the Red Bed Formation, a minimum of 10 feet, and cemented to the surface.

(c) If it is proposed to close the Red Bed Formation portion of a well, then the following standards apply:

(1) if no casing is placed in the well below the top of the Red Bed Formation, the hole shall be filled with dirt, rock, mud or similar material to a level no less than 50 feet below the base of the Ogallala aquifer and sufficient cement added to fill the hole to the base of the Ogallala aquifer;

(2) if casing has been set through the Red Bed Formation with perforations below the Ogallala aquifer, all perforations shall be closed with cement and a cement plug at least 10 feet in height placed in the casing below the base of the Ogallala aquifer, and above the highest perforation in the Red Bed Formation; or

(3) if bland casing (no perforations) has been set into the Red Bed Formation, then either:

(A) cement shall be pumped below the shoe of the casing in sufficient volume to fill the annulus between the casing and the wall of the hole up to the base of the Ogallala aquifer, or

(B) the casing shall be removed from the well and the Red Bed Formation plugged in accordance with subsection (c)(1).

6.129 Transfer of Drilling Permit Prohibited

No person may transfer the ownership of a drilling permit issued by the District.

Subchapter C Recharge Injection Well Permits

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6.201 Purpose

The purpose of this subchapter is to provide for the management through permits of the recharge of source water into the aquifer.

6.203 Applicability

This subchapter applies to the owners of existing and new recharge injection wells.

6.205 Recharge Injection Well Permits Required; Deadline for Existing Wells; Applications

(a) Injecting source water into the aquifer without a recharge injection well permit required by this subchapter is illegal, wasteful per se, and a nuisance.

(b) No person may inject any source water into the aquifer through a new or existing recharge injection well within the District's boundaries or an existing recharge injection well without obtaining a recharge injection well permit from the District. Permits for existing recharge injection wells shall be applied for no later than December 15, 2004.

(c) Any person seeking to inject source water into the aquifer through a recharge injection well identified in subsection (b) must file with the District an application for a recharge injection well permit on a form prescribed by the District.

6.207 Basis for Action on Recharge Injection Well Permit Applications

The Board shall grant an application for a recharge injection well permit if the Board finds that:

(1) the application is complete;

(2) the application complies with the rules of the District;

(3) the applicant owns the well;

(4) all applicable fees and deposits have been paid;

(5) the application identifies a proposed or an existing recharge injection well;

(6) the wellhead is or will be physically located within the boundaries of the District;

(7) the well is designed to inject water into the aquifer;

(8) the applicant has, or will have, the ownership, control, and legal right to appropriate and transport the source water for the purpose of recharge into the aquifer;

(9) the applicant is in compliance with any permits the applicant holds from the District and with District rules;

(10) the well will be equipped, operated, and maintained, as appropriate, to preserve, protect, prevent the pollution, degradation, or harmful alteration of, control and prevent the waste of, prevent the escape of, and achieve the conservation of groundwater in the aquifer;

(11) the applicant intends to equip, operate, maintain, and close the well in accordance with the manufacturer's standards, instructions, or recommendations, as may be applicable;

(12) the well will be equipped, operated, maintained, and closed consistent with Chapters 1901 and 1902, Texas Occupations Code, and Chapter 66, 16 TEXAS ADMINISTRATIVE CODE, relating to the TDLR's rules on water well drillers and water well pump installers, Chapter 27, TEXAS WATER CODE, and Chapter 331, 30 TEXAS ADMINISTRATIVE CODE, as may be amended, relating to the commission's rules on underground injection control, and any other applicable local, state, and federal law;

(13) the recharge will increase the volume of water entering the aquifer by artificial means, and the amount of groundwater available for production from the aquifer through the storage of source water in the aquifer for subsequent production;

(14) the source water meets or exceeds all applicable water quality standards;

(15) the water quality of the aquifer will be protected for the life of the project;

(16) the recharge of source water into the aquifer will not degrade the physical, chemical, or biological quality of the native groundwater of the aquifer; and

(17) the nature and extent of the surface development activity proximate to the point of recharge does not present unreasonable risk to the quality of the source water or the native groundwater in the aquifer.

6.209 Contents of Recharge Injection Well Permits

Recharge injection well permits shall contain the following information:

(1) name, address and telephone number of the permittee;

(2) name, address and telephone number of an authorized representative, if any, of the permittee;

(3) permit term;

(4) the purpose of the well is for recharge into the aquifer;

(5) maximum rate of recharge in gallons per minute;

(6) legal description of the location of the well, including, county; section, block and survey; latitude and longitude, or other adequate legal description, as may be required by the District;

(7) the source water;

(8) identification of the legal authority of the permittee to inject the source water into the aquifer;

(9) size of the pump, pumping rate, pumping method;

(10) meter specifications;

(11) all applicable reporting requirements;

(12) a statement that the permittee must file all applicable reports with the District prior to the recharge of water from the well into the aquifer, except for such recharge necessary to the drilling and testing of the well;

(13) a statement that the permittee agrees to use reasonable diligence to protect groundwater quality and that well plugging laws will be followed at the time of well closure;

(14) a copy of the approved water well closure plan, if any, or a declaration that the permittee will comply with well plugging laws and report closure to the TDLR and the District;

(15) procedures to measure or calculate artificial recharge into the aquifer after the well is operational;

(16) procedures to monitor source water and aquifer water quality;

(17) predicted rate of recharge;

(18) predicted amount of recharge;

(19) construction and completion schedule; and

(20) any other terms and conditions as determined by the Board.

6.211 Standard Permit Conditions

All recharge injection well permits shall be issued with and subject to the following conditions:

(1) the duty to properly close (cap or plug) all wells in accordance with applicable law, and comply with either the District's well closure plan, if any, as may be amended from time to time, or the permittee's plan approved by the District, as appropriate;

(2) the duty to file all applicable reports with the District, and other appropriate federal, state, or local governments;

(3) the duty to use diligence to protect the groundwater quality of the aquifer;

(4) the duty to comply with the District's rules;

(5) permit review, renewal, or extension conditions;

(6) the continuing right of the District to supervise and manage artificial recharge into the aquifer;

(7) installation, equipping, operation, maintenance, and closure of all wells in accordance with the District's rules, and other applicable federal, state, and local law;

(8) installation, equipping, operation, and maintenance of all meters in accordance with the District's rules;

(9) the duty to comply with the District's rules relating to transfers and amendments of permits;

(10) the duty to pay and be current in the payment of all applicable fees;

(11) the duty to give notice to District of any changes in name, address, or telephone number of the permittee, or the authorized representative, or the landowner, as may be appropriate;

(12) the duty to comply with all of the terms and conditions of the permit;

(13) the right of the District to enter land under § 36.123, TEXAS WATER CODE, as may be amended; and

(14) any other conditions as the Board may deem appropriate.

6.213 Recharge Injection Well Permit Terms; Renewal; Applications

A recharge injection well permit may be issued for a fixed term not to exceed the operational life of the project as may be determined by the Board.

6.214 Basis for Action on Recharge Injection Well Permit Renewal Applications

The Board shall grant an application to renew a recharge injection well permit if the elements in § 6.207 are established.

6.215 Source Water; Groundwater from PGMAs Prohibited

(a) Except as provided in subsection (b), any source water a person has the legal right to divert or withdraw and place to beneficial use may be injected into the aquifer.

(b) Groundwater that is produced from an aquifer within an area that has been designated by the commission as a priority groundwater management area pursuant to § 35.012, TEXAS WATER CODE, as may be amended, may not be injected into the aquifer.

6.217 Water Rights in Source Water; Expiration of Permit

A permittee must obtain ownership of, or the legal right to use, water rights to the source water within one year after the effective date of a recharge injection well permit. If the water rights to source water are not obtained within this period, then the injection well permit expires and is of no force or effect.

6.219 Water Quality of Source Water

The quality of source water at the point of entry of recharge into the aquifer, shall meet or exceed all applicable state and federal water quality standards.

6.221 Notice to Groundwater Conservation Districts

(a) If the source water of the application is groundwater proposed or to be produced from an aquifer under the jurisdiction of a groundwater conservation district other than the District, then the applicant shall:

(1) provide a copy of the application to each groundwater conservation district that has jurisdiction over the source groundwater;

(2) cooperate with each district that has jurisdiction over the source groundwater to ensure compliance with the rules of each district; and

(3) comply with the rules of each district that has jurisdiction over the groundwater governing the withdrawal of source groundwater and export of the source groundwater outside of the boundaries of the district.

(b) If the rules of a district require that an applicant reach an agreement with a district that has jurisdiction over the source groundwater regarding the withdrawal and exportation of the groundwater to the aquifer for recharge, then compliance with the agreement shall be included as a condition of any recharge injection well permit issued by the District.

6.223 Acquisition Of Other Permits As Condition To Recharge Injection Well Permit

The District may issue a recharge injection well permit conditioned upon the applicant's receipt of all other permits and approvals required by law, including, but are not limited to, those related to surface water rights, groundwater exportation, pretreatment, water treatment, well construction, and recharge injection wells.

6.225 Recharge Injection in Violation of Permit Prohibited; Permit Transfers and Amendments; Applications; Notice of Transfer of Ownership

(a) No holder of a recharge injection permit may recharge sourcewater into the aquifer inconsistent with the permit, and any such recharge is illegal, wasteful per se, and a nuisance. No change in the recharge of source water into the aquifer under a permit may be made without the prior approval of a permit amendment issued by the Board.

(b) This section applies to the owners of recharge injection well permits seeking to transfer or change their permit in the following respects:

(1) ownership;

(2) if other than the owner, the person authorized to inject source water under the permit;

(3) the quality of the source water;

(4) the rate of recharge in gpms; or

(5) the total volume of source water injected in acre-feet per annum.

(c) Except as provided in subsection (d), any person seeking to inject source water into the aquifer in a manner inconsistent with their permit must file with the District an application to amend on a form prescribed by the District.

(d) Within 30 days after transfer of the ownership or lease of a recharge injection well permit, the transferee shall file with the District a notice of transfer of ownership or lease on a form prescribed by the District. If the notice is complete, and the transfer is otherwise in compliance with this subchapter, the general manager shall reflect the new ownership, or lease, by issuing an amended permit to the transferor, transferee, or both, as may be appropriate.

6.227 Basis for Granting Applications to Amend Recharge Injection Well Permits

The Board shall grant an application to amend a recharge injection well permit if the elements provided for in § 6.209 are established.

Subchapter D Open, Abandoned or Deteriorated Wells

6.301 Purpose
6.303 Applicability
6.305 Open Wells Prohibited; Board Orders; Capping and Plugging Standards
6.307 Abandoned or Deteriorated Wells Prohibited; Board Orders; Capping and Plugging Standards

6.301 Purpose

The purpose of this subchapter is to prevent the pollution, degradation or harmful alteration of the quality of the water of the aquifer due to improperly managed wells.

6.303 Applicability

This subchapter applies to any owner of an open, abandoned or deteriorated well.

6.305 Open Wells Prohibited; Board Orders; Capping and Plugging Standards

(a) Open wells are prohibited within the District's boundaries. No well owner may allow an open well condition to exist. By order of the Board, the District may require a well owner, or lessee of land on which an open well is located, to either cap or plug the well.

(b) Not later than the 30th day after the date a well driller learns of the existence of an open well, the well driller shall notify the general manager and the well owner in writing of the existence of the well, and that it must be capped or plugged to avoid pollution of the aquifer.

(c) Not later than the 30th day after the date a well owner learns of the existence of an open well, the well owner shall either cap or plug in accordance with the standards in subsections (d) or (e), respectively.

(d) All wells located within the Districts boundaries to be closed by capping shall be capped:

(1) with a covering capable of sustaining weight of at least 400 pounds, except when the well is in actual use;

(2) consistent with § 76.1004(f), 16 TEXAS ADMINISTRATIVE CODE, as may be amended, relating to the TDLR well capping standards; and

(3) consistent with the water well closure plan, if any, approved by the District.

(e) All wells located within the Districts boundaries to be closed by plugging shall be plugged consistent with:

(1) § 76.1004(a)-(e), 16 TEXAS ADMINISTRATIVE CODE, as may be amended, relating to the TDLR well plugging standards; and

(2) the water well closure plan, if any, approved by the District.

6.307 Abandoned or Deteriorated Wells Prohibited; Board Orders; Capping and Plugging Standards

(a) Abandoned or deteriorated wells are prohibited within the District's boundaries. No well owner may allow an abandoned or deteriorated well condition to exist. By order of the Board, the District shall require a well owner, or lessee of land on which an abandoned or deteriorated well is located, to either cap or plug the well in accordance with the standards in § 6.305(d) or (e), respectively.

(b) Not later than the 30th day after the date a well driller learns of the existence of an abandoned or deteriorated well, the well driller shall notify the general manager and the well owner in writing of the existence of the well, and that it must be plugged or capped to avoid pollution of the aquifer.

(c) Not later than the 30th day after the date a well owner learns of the existence of an abandoned or deteriorated well, the well owner shall either cap or plug in accordance with the standards in § 6.305(d) or (e), respectively.

CHAPTER 7 GROUNDWATER POLLUTION PREVENTION

7.001 Purpose
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7.005 Prohibition on Pollution of the Aquifer by Entry of Pollutants from Another Stratum
7.007 Prohibition on Pollution of the Aquifer by Entry of Pollutants from the Surface of the Ground
7.009 Prohibition on Discharge of Saltwater; Lined Pits
7.011 Use of Explosives Above the Red Bed Formation

7.001 Purpose

The purpose of this chapter is to prohibit activities that may contribute to the pollution of the aquifer in order to:

(1) preserve and protect the aquifer;

(2) prevent the pollution, degradation, or harmful alteration of the character of the groundwater in aquifer; and

(3) control and prevent the waste of groundwater in the aquifer.

7.003 Applicability

This chapter applies to any person undertaking, performing, conducting, or commencing any of the activities prohibited in this chapter.

7.005 Prohibition on Pollution of the Aquifer by Entry of Pollutants from Another Stratum

No person shall pollute, or harmfully alter, the aquifer by:

(1) the admission into the aquifer of saltwater, or other deleterious matter, from another stratum; or

(2) the production of groundwater from the aquifer at a rate and in an amount that causes, or threatens to cause, intrusion into the aquifer of water unsuitable for agricultural, gardening, domestic, stock raising purposes, or other beneficial uses.

7.007 Prohibition on Pollution of the Aquifer by Entry of Pollutants from the Surface of the Ground

No person shall pollute, or harmfully alter, the aquifer by the admission into the aquifer of saltwater, or other deleterious matter, from the surface of the ground through recharge features, whether natural or artificial.

7.009 Prohibition on Discharge of Saltwater; Lined Pits

No person shall dispose of saltwater by discharge onto the ground within the District's boundaries. Saltwater may be discharged into and stored in a saltwater pit located within the District's boundaries that meets the installation, operation, and maintenance requirements of § 3.8, 16 TEXAS ADMINISTRATIVE CODE, as may be amended.

7.011 Use of Explosives Above the Red Bed Formation

No person may set off, detonate, or discharge, any explosive within the District's boundaries at any point or place within the saturated zone above the Red Bed Formation forming the base of the aquifer.

CHAPTER 8 WATER CONSERVATION

[RESERVED]

CHAPTER 9 PROCEDURE BEFORE THE DISTRICT

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Subchapter A General Provisions

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9.011 Change of Address or Telephone Number
9.013 Use of Forms

9.001 Purpose

The purpose of this chapter is to provide for the procedures to be followed in the processing of applications and registrations, and other types of approvals or actions that may be taken by the District. These rules should be interpreted to simplify procedure, avoid delay, save expense, and facilitate the administration and enforcement of the District's groundwater management rules, policies, and objectives.

9.003 Applicability

This chapter applies to the processing of all applications or registrations filed with the District, to meetings of the Board, and to rulemaking by the District.

9.005 Computation of Time

In computing any period of time under the District's rules or orders, the period shall begin on the day after the act or event in question, and shall conclude on the last day of that designated period, unless it is a Saturday, Sunday, or legal holiday on which the District office is closed, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a legal holiday on which the District office is closed.

9.007 Document Filing

(a) Except for the documents required to be filed with a judge, all documents required to be filed with the District shall be filed with the general manager in original form. If appropriate, the general manager shall assign an application or registration number to a matter. The application or registration number should appear on the first page of any document filed in that matter.

(b) Documents shall be filed by mail or hand delivery. Documents containing 20 or fewer pages may also be filed by facsimile. If a person files a document by facsimile, the original document must also be filed with the general manager by mail or hand delivery within three days.

(c) Any document required or authorized to be filed under the District's rules, or by law, must be received for filing at the District's business office within the applicable time limit, if any, for such filing. The date and time of receipt by the District shall be evidenced by a date stamp affixed to the front page of the document. The affixed date and time of receipt, and not the date of

posting in the mail, shall be determinative of the date and time of filing of a document with the District.

(d) The District shall accept all documents submitted. The District's acceptance is not a determination that a document meets filing deadlines or any other requirement.

(e) If a person fails to follow the requirements of this section, the District may choose not to consider the documents submitted. The District may waive one or more of the requirements of this section or impose additional filing requirements as appropriate.

(f) This section also applies to matters that have been referred to a contested case hearing and the filing of any documents with the presiding officer in that proceeding under subchapter G of this chapter.

9.009 Service of Documents

(a) Except as otherwise provided in these rules, all documents filed, served, or delivered under this chapter or these rules, must be served as follows:

(1) by delivering a copy to the person to be served, or the person's duly authorized agent or attorney of record, either in person or by agent or by carrier-receipted delivery or by United States mail, to the person's last known address;

(2) by facsimile to the recipient's current facsimile number; or

(3) by email to the recipient's email address.

(b) Service by mail shall be complete upon deposit of the document, enclosed in a postage-paid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. Service by facsimile or email is complete upon transfer and shall be accomplished by 5:00 p.m. (as shown by the clock of the local time of the recipient) of the date on which it is due. Any transfer after 5:00 p.m. shall be deemed served on the following day. Service by facsimile or email must be followed by serving the original document in person, by mail or by carrier-receipted delivery within three days. Where service by the methods listed in subsection (a) has proved unsuccessful, the service shall be complete upon publication of notice in a newspaper.

(c) Whenever a person has the right or is required to do some act within a prescribed period after the service of a document upon the person, and the document is served by mail or by facsimile, three days shall be added to the prescribed period. This subsection does not apply when documents are filed for consideration at a Board meeting.

(d) A document served under this rule must contain a certificate of service indicating the date and manner of service and the name and address of each person served. The person or the person's attorney of record shall certify compliance with this rule in writing by signature on the filed document. A certificate by a person or the person's attorney of record, or the return of an

officer, or the affidavit of any person showing service of a document, shall be prima facie evidence of service.

(e) Nothing herein shall preclude any person from offering proof that the notice or instrument was not received or, if service was by mail, that it was not received within three days from the date of deposit in a post office or official depository under the care and custody of the United States Postal Service, and upon so finding, the District may extend the time for taking the action required of such party or grant such other relief as it deems just. The provisions herein relating to the method of service of notice are in addition to all other methods of service prescribed by these rules.

(f) In contested case hearings, copies of all documents filed with the presiding officer shall be served on all parties, including the general manager, no later than the day of filing.

9.011 Change of Address or Telephone Number

Applicants, registrants, permittees, and other persons with a matter before the District must give written notice to the District of any change of mailing address or telephone number within 30 days of such change.

9.013 Use of Forms and Supplements

The general manager shall furnish, without charge, forms and instructions for the preparation of any application, registration, or other form required by the District's rules to be filed with the District. The use of such forms is mandatory. The District shall not accept for filing any document required to be on a District form, but not actually prepared on a District prescribed form. Supplements may be attached if there is insufficient space on the form. If a supplement is used, the data and information entered thereon shall be separated into sections that are numbered to correspond with the numbers on the printed form.

Subchapter B Meetings of the Board

9.101 Purpose
9.103 Applicability
9.105 Meetings Generally
9.107 Conduct and Decorum at Board Meetings

9.101 Purpose

The purpose of this subchapter is to provide for the procedure, in addition to the District's Bylaws, to be followed by the Board and the public in the conduct of its Board meetings.

9.103 Applicability

This subchapter applies to all meetings of the Board.

9.105 Meetings Generally

(a) The Board shall meet as necessary for the conduct of business at times and places necessary for the performance of the District's duties. Board meetings shall be scheduled in accordance with the Bylaws of the District. The Board is subject to the Texas Open Meetings Act.

(b) Meetings of the Board shall be presided over by the president, or in the president's absence, the vice-president, or in the absence of both the president and the vice-president, the secretary.

9.107 Conduct and Decorum at Board Meetings

(a) Persons who attend or participate in a meeting of the Board must act in a manner that is respectful of the conduct of public business and conducive to orderly and polite discourse.

(b) All persons shall comply with the president's directions concerning the offer of public comment, conduct and decorum. Before the meeting, any person who wishes to speak shall complete a public participation form and deliver it to the general manager or his or her representative at the meeting.

(c) Persons who have special requests concerning a presentation during a meeting shall make advance arrangements with the general manager. A special request includes:

(1) the presentation of audio or video recordings;

(2) the need to move furniture, appliances, or easels;

(3) alternative language interpreters; or

(4) auxiliary aids or services, such as interpreters for persons who are hearing impaired, readers, large print, or Braille.

Subchapter C Rulemaking Procedures

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9.213 Effective Date of Rules
9.215 Emergency Rulemaking
9.217 Petition for Rulemaking

9.201 Purpose

The purpose of this subchapter is to set out the procedures governing the adoption of rules by the District.

9.203 Applicability

This subchapter applies to the adoption of rules by the District.

9.204 Informal Conferences; Advisory Committees

(a) The Board or the general manager may conduct informal conferences or consultations to obtain the opinions and advice of interested persons about proposed rules.

(b) The Board or the general manager may appoint advisory committees of experts, interested persons, or public representatives to advise the District about proposed rules.

9.205 Public Hearings on Proposed Rules

(a) The District shall conduct at least one public hearing on proposed rules approved by the Board.

(b) The general manager shall set a time and place for all public hearings on proposed rules.

(c) The general manager may designate a person to be the presiding officer to conduct the public hearing. Public hearings shall be conducted in the manner the presiding officer deems most appropriate to conveniently, inexpensively and expeditiously obtain information and provide a reasonable opportunity for interested persons to submit comments, technical data, briefs, or exhibits, in writing or orally, on proposed rules. The presiding officer shall establish the order of public comment and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

(d) The record of a public hearing on proposed rules shall be recorded by audio or video recording, or a court reporter transcription, and shall be kept and maintained by the District as may be required by law. If any person causes the hearing to be transcribed, the person shall provide a copy of the transcription to the District within 5 days of its availability.

(e) Each person who participates in the public hearing shall register and state the person's name and address, and, if applicable, the person or entity he or she represents.

9.207 Notice of Public Hearings on Proposed Rules

(a) At least 20 days before the date of the first public hearing, the general manager shall provide notice of a public hearing on a proposed rule as follows:

(1) publish notice in a newspaper of general circulation within the boundaries of the District;

(2) post notice at a place readily accessible to the public at the offices of the District;

(3) file notice with the county clerk to be posted at the county courthouse; and

(4) provide mail, facsimile, or electronic mail notice to any person who has requested notice under Subsection (c). An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or electronic mail to such person in accordance with the information provided by the person is proof that notice was provided by the District.

(b) The notice shall include:

(1) a brief explanation of the subject of the rulemaking;

(2) the date, time, and place, of the public hearing;

(3) the procedures for obtaining copies of the proposed rule and for submitting oral or written comments, including the physical location or internet site at which a copy of the proposed rules may be reviewed or copied;

(4) the date and time by which written comments must be filed with the District; and

(5) a statement regarding the opportunity to appear at the Board meeting at which a proposed rule may be adopted as a final rule and make comments on the proposed rule.

(c) A person may submit to the District a written request for notice of a public hearing. A request is effective for the remainder of the calendar year in which the request is received by the

District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request.

9.209 Comments on Proposed Rules

(a) Oral comments may be made at a public hearing conducted on proposed rules or at the Board meeting at which the Board may be considering adopting the proposed rules as final rules. Any person desiring to provide oral comments must so indicate on the registration form prescribed by the District and provided at the hearing.

(b) Written comments or other documents must be filed at the business address of the District, or hand delivered to the presiding officer of the public hearing no later than the date and time set out in the notice of the public hearing. As may be authorized by the Board, the presiding officer may hold the record open for a specified period after the conclusion of the public hearing to receive additional written comments. All written comments or other material provided to the District should be filed on 8 1/2 x 11-inch paper and be typed or legibly written. Written comments must indicate whether the comments are general and directed at all of the proposed rules, or whether they are directed at specific proposed rules. If directed at specific rules, the number of the proposed rule must be identified and followed by the comments on the specifically identified proposed rule.

(c) The Board shall consider all public comments prior to taking final action to adopt any proposed rule as a final rule.

9.211 Public Inspection of Rules

The District shall compile and make its proposed and final rules available for public inspection as follows:

(1) at a place accessible to the public during normal business hours at the business office of the District; and

(2) by posting an electronic copy on the District's internet site.

9.213 Effective Date of Rules

A proposed rule becomes final and effective as a final rule on the date set out in the order adopting final rules.

9.215 Emergency Rulemaking

(a) The Board may adopt an emergency rule without prior notice or hearing or with an abbreviated notice and hearing, if the Board:

(1) finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and

(2) prepares a written statement of the reasons for its finding under Subdivision (1).

(b) Except as provided by Subsection (c), a rule adopted under this section may not be effective for longer than 90 days.

(c) If notice of a hearing on the final rule is given not later than the 90th day after the date the rule is adopted, the rule is effective for an additional 90 days.

(d) A rule adopted under this section must be adopted at a meeting held as provided by Chapter 551, Government Code.

9.217 Petition for Rulemaking

(a) A person with a real property interest in groundwater arising from property located within the District may file a petition with the District to request the adoption or modification of a rule.

(b) Petitions under this rule must be submitted to the District office in writing on the Petition to Adopt or Modify Rules Form adopted and prescribed by the Board and must comply with the following requirements:

(1) A separate petition must be filed for each general topic proposed to be addressed by a rule modification or change;

(2) Each petition must be signed and state the full name of each person signing the petition and the person's contact information, including phone number, physical address, mailing address, and email, if any;

(3) Each petition must include:

(A) proof that the person submitting the petition has a real property interest in groundwater arising from property located within the District;

(B) a written explanation of the proposed rule or rule modification's intended purpose;

(C) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any; and

(D) an allegation of injury or inequity that could result from the failure to adopt the proposed rule.

(c) The District will provide notice of the Board's consideration of and action on a petition in accordance with District Rule 9.207.

(d) Any person with a real property interest in groundwater arising from property located within the District may provide written public comment on the petition to the District in compliance with District Rule 9.209.

(e) Notice of the Board's consideration of and action on a petition shall be included on a Board agenda with three (3) calendar days' notice in accordance with the Texas Open Meetings Act.

(f) Any person desiring to testify on a petition during a hearing must so indicate on the registration form provided at the hearing. The presiding officer establishes the order of testimony and may limit the number of times a person may speak, and the time period for oral presentations. The presiding officer may also limit or exclude questions and cumulative, irrelevant, or unduly repetitious presentations.

(g) Within 90 days after submission of a petition that complies with this rule, the Board shall consider the petition at a Board meeting and either:

(1) grant the petition in part or in its entirety and initiate rulemaking proceedings on the subject matter identified in the granted petition in accordance with rulemaking procedure set forth in this subchapter; or

(2) deny the petition in part or in its entirety and provide an explanation for denial in the minutes of the Board meeting or in a separate written statement to be kept in the District's records.

Subchapter D Applications and Registrations

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9.337 Notices of Transfer of Ownership

9.301 Purpose

The purpose of this subchapter is to provide for the procedures to be followed for applications, registrations, and notices of transfer of ownership that may be filed with the District.

9.303 Applicability

This subchapter applies to any application, registration, or notice of transfer of ownership filed with the District.

9.305 Requirements Applicable to All Applications and Registrations

All applications, registrations, and notices of transfer of ownership filed with the District shall be typewritten or printed legibly in ink and shall include:

(1) The full name, physical and mailing address, telephone number, facsimile number, and email address of the applicant or registrant. If the applicant or registrant is a partnership, the applicant or registrant shall designate the name of the partnership followed by the words "a partnership." If the applicant or registrant is acting as trustee for another, the applicant or registrant shall designate the trustee's name followed by the word "trustee." If one other than the named applicant or registrant executes the application or registration, the person executing the application

or registration shall provide their name, position, physical and mailing address, and telephone number.

(2) Signature of Applicant or Registrant. The application or registration shall be signed as follows:

(A) If the applicant or registrant is an individual, the application or registration shall be signed by the applicant, registrant or a duly appointed agent. An agent shall provide written evidence of his or her authority to represent the applicant or registrant. If the applicant or registrant is an individual doing business under an assumed name, the applicant or registrant shall attach to the application or registration an assumed name certificate from the county clerk of the county in which the principal place of business is located.

(B) Joint applications and registrations. A joint application or registration shall be signed by each applicant or registrant or each applicant's or registrant's duly authorized agent with written evidence of such agency submitted with the application or registration. If a well or proposed well is owned by both husband and wife, each person shall sign the application or registration. Joint applicants or registrants shall select one among them to act for and represent the others in pursuing the application or registration with the District with written evidence of such representation to be submitted with the application or registration.

(C) If the application or registration is by a partnership, the application or registration shall be signed by one of the general partners. If the applicant or registrant is a partnership doing business under an assumed name, the applicant or registrant shall attach to the application or registration an assumed name certificate from the county clerk of the county in which the principal place of business is located.

(D) If the applicant or registrant is an estate or guardianship, the application or registration shall be signed by the duly appointed guardian or representative of the estate and a current copy of the letters testamentary issued by the court shall be attached to the application or registration.

(E) If the applicant or registrant is a corporation, public district, county, municipality or other corporate entity, the application or registration shall be signed by a duly authorized official. Written evidence in the form of bylaws, charters, or resolutions specifying the authority of the official to take such action shall be submitted along with the application or registration. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

(F) If the applicant or registrant is acting as trustee for another, the applicant or registrant shall sign as trustee and in the application or registration shall disclose the nature of the trust agreement and give the name and current address of each trust beneficiary.

(3) Attestation.

(A) Each applicant shall subscribe and swear or affirm under oath that the facts set out in the application are accurate before any person entitled to administer oaths who shall also sign his or her name and affix his or her seal of office to the application.

(B) Each registrant shall sign a statement certifying that all information provided therein is true.

9.307 Applications for Production Permit

(a) In addition to the information specified in § 9.305, except as provided in Subsection (b), an application for a production permit shall contain information reasonably related to the information to be contained in a production permit under §§ 5.123 and 5.125 and the elements to be considered by the Board in determining whether to grant or deny the application under § 5.117.

(b) In the general manager's discretion, the information required to be submitted in an application for a small production permit may be reduced or eliminated relating to the effects of the permit on the quantity and quality of groundwater in the aquifer.

(c) The application shall be submitted on the form developed and prescribed by the District.

9.309 Applications to Renew Production Permit

In addition to the information specified in § 9.305, an application to renew a production permit shall contain information reasonably related to the information to be contained in a production permit under §§ 5.123 and 5.125 and the elements to be considered by the Board in determining whether to grant or deny the application under § 5.121. The application shall be submitted on the form developed and prescribed by the District.

9.311 Applications to Amend Production Permit

In addition to the information specified in § 9.305, an application to amend a production permit shall contain information reasonably related to the information to be contained in a production permit under §§ 5.123 and 5.125 and the elements to be considered by the Board in determining whether to grant or deny the application under § 5.133. The application shall be submitted on the form developed and prescribed by the District.

9.313 Applications for Well Reclassification

In addition to the information specified in § 9.305, an application for reclassification shall contain information reasonably related to the information to be contained in a well reclassification determination under § 5.413 and the elements to be considered by the Board in determining whether to grant or deny the application under § 5.415. The application shall be submitted on the form developed and prescribed by the District.

9.315 Waiver of Well Spacing Standards

In addition to the information specified in § 9.305, a waiver of well spacing standards shall contain information reasonably related to the information to be contained in a waiver of well spacing standards determination under § 5.417 and the elements to be considered by the Board in determining whether to grant or deny the application under § 5.419. The waiver shall be submitted on the form developed and prescribed by the District.

9.317 Applications for Groundwater Exportation Permit

In addition to the information specified in § 9.305, an application for groundwater exportation permit shall contain information reasonably related to the information to be contained in a groundwater exportation permit under § 5.607 and the elements to be considered by the Board in determining whether to grant or deny the application under §§ 5.609 and 5.623. The application shall be submitted on the form developed and prescribed by the District.

9.319 Applications to Renew Groundwater Exportation Permit

In addition to the information specified in § 9.305, an application to renew a groundwater exportation permit shall contain information reasonably related to the information to be contained in a groundwater exportation permit under § 5.607 and the elements to be considered by the Board in determining whether to grant or deny the application under §§ 5.611, 5.613, and 5.623. The application shall be submitted on the form developed and prescribed by the District.

9.321 Applications to Extend Initial Term of Groundwater Exportation Permit

In addition to the information specified in § 9.305, an application to extend the initial term of a groundwater exportation permit shall contain information reasonably related to the information to be contained in an extension of the initial term of a groundwater exportation permit determination under § 5.615 and the elements to be considered by the Board in determining whether to grant or deny the application under § 5.617. The application shall be submitted on the form developed and prescribed by the District.

9.323 Applications to Amend Groundwater Exportation Permit

In addition to the information specified in § 9.305, an application to amend a groundwater exportation permit shall contain information reasonably related to the information to be contained in a groundwater exportation permit under § 5.607 and the elements to be considered by the Board in determining whether to grant or deny the application under §§ 5.623, 5.627, and 5.629. The application shall be submitted on the form developed and prescribed by the District.

9.325 Applications for Well Drilling Permit

In addition to the information specified in § 9.305, an application for a well drilling permit shall contain information reasonably related to the information to be contained in a well drilling

permit under § 6.113 and the elements to be considered by the Board in determining whether to grant or deny the application under § 6.107. The application shall be submitted on the form developed and prescribed by the District.

9.327 Applications to Extend Term of Well Drilling Term

In addition to the information specified in § 9.305, an application to extend the term of a well drilling permit shall contain information reasonably related to the information to be contained in an extension of the term of a well drilling permit determination under § 6.109 and the elements to be considered by the Board in determining whether to grant or deny the application under § 6.111. The application shall be submitted on the form developed and prescribed by the District.

9.329 Applications for Recharge Injection Well Permit

In addition to the information specified in § 9.305, an application for a recharge injection well permit shall contain information reasonably related to the information to be contained in a recharge injection well permit under § 6.209 and the elements to be considered by the Board in determining whether to grant or deny the application under § 6.207. The application shall be submitted on the form developed and prescribed by the District.

9.3291 Applications to Renew Recharge Injection Well Permit

In addition to the information specified in § 9.305, an application to renew a recharge injection well permit shall contain information reasonably related to the information to be contained in a recharge injection well permit under § 6.209 and the elements to be considered by the Board in determining whether to grant or deny the application under §§ 6.213, 6.214, and 6.211. The application shall be submitted on the form developed and prescribed by the District.

9.330 Application to Amend Recharge Injection Well Permit

In addition to the information specified in § 9.305, an application to amend a recharge injection well permit shall contain information reasonably related to the information to be contained in a recharge injection well permit under §§ 6.209 and 6.211 and the elements to be considered by the Board in determining whether to grant or deny the application under § 6.227. The application shall be submitted on the form developed and prescribed by the District.

9.331 Well Registrations

In addition to the information specified in § 9.305, a well registration shall contain information reasonably related to the information to be contained in a well registration under § 5.307 and the elements to be considered by the Board in determining whether to approve or disapprove the registration under § 5.311. The registration shall be submitted on the form developed and prescribed by the District.

9.333 Amended Well Registrations

In addition to the information specified in § 9.305, an amended well registration shall contain information reasonably related to the information to be contained in an amended well registration under § 5.309 and the elements to be considered by the Board in determining whether to approve or disapprove the registration under § 5.311. The registration shall be submitted on the form developed and prescribed by the District.

9.335 Meter Registrations

In addition to the information specified in § 9.305, a meter registration shall contain information reasonably related to the information to be contained in a meter registration under § 5.511 and the elements to be considered by the Board in determining whether to approve or disapprove the registration under § 5.517. The registration shall be submitted on the form developed and prescribed by the District.

9.337 Notices of Transfer of Ownership

In addition to the information specified in § 9.305, a notice of transfer of ownership shall contain information reasonably related to the information to be contained in a notice of transfer of ownership under §§ 5.135, 5.631 or 6.225, as appropriate.

Subchapter E Application and Registration Processing

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9.401 Purpose

The purpose of this subchapter is to provide the procedures to be followed in the processing of applications, registrations, and notices of transfer of ownership filed with the District.

9.403 Applicability

This subchapter applies to the processing of all applications, registrations, or notices of transfer of ownership filed with the District.

9.405 Pre-filing Conferences

Applicants, registrants, and persons filing notices of transfer of ownership are encouraged to confer with District staff on any questions concerning the preparation of the application, registration, or notice of transfer of ownership.

9.407 Initiation of Proceedings by Application, Registration, or Notice of Transfer of Ownership

Any person who wishes to obtain a permit, registration, authorization, or other approval from the District shall submit a written application, registration, or notice of transfer of ownership, as may be appropriate, to the District on a form prescribed by the District and provided by the general manager.

9.409 Proper Applicants, Registrants, or Notice Filers; Well Ownership

(a) All applications, registrations, or notices of transfer of ownership shall be filed by the well owner(s), whether the well has one owner or multiple owners. If there is more than one owner, the owners shall select one among them to act for and represent the others in the filing of documents. Written documentation of such a selection satisfactory to the District shall be filed with any application, registration, or notice of transfer of ownership.

(b) Unless documentation establishes otherwise, for purposes of the District's rules, the owner of the land on which a well is located is deemed to own the well. Unless ownership of a well by a lessee, assignee, or easement holder is clearly established in documents defining the relationship between the parties, a lessee or assignee of the surface estate, or an easement holder, is not considered to be the owner of a well.

9.411 Initial Receipt

All applications, registrations, and notices of transfer of ownership received by the District shall be stamped or marked "Received" with the date and time of receipt clearly indicated.

9.413 Administrative Completeness

(a) The general manager shall conduct an initial review of each application, registration, or notice of transfer of ownership for administrative completeness. Illegible applications, registrations, or notices of transfer of ownership shall be returned to the applicant, registrant, or notice filer. In reviewing an application, registration, or notice of transfer of ownership for administrative completeness, the general manager shall assess whether the application, registration, or notice of transfer of ownership contains the necessary information required by subchapter D of this chapter in legible form to allow:

(1) the general manager to forward the application, registration, or notice of transfer of ownership to be filed and maintained in the permanent records of the District;

(2) technical review to be conducted for applications and registrations; and

(3) the general manager to take or recommend action on the application, registration, or notice of transfer of ownership, as appropriate.

(b) Upon determining that an application, registration, or notice of transfer of ownership is administratively complete, the general manager shall notify the applicant, registrant, or notice filer by mail.

(c) If the general manager determines that an application, registration, or notice of transfer of ownership is not administratively complete, the general manager shall notify the applicant, registrant, or notice filer of any deficiencies by mail. The applicant, registrant, or notice filer must submit any additional information requested by the general manager within 30 days of receipt of the letter noting the deficiencies. If the additional information is not forthcoming within 30 days of the date of receipt of the letter noting the deficiencies, the general manager shall return the incomplete application, registration, or notice of transfer of ownership to the applicant, registrant, or notice filer.

9.415 Technical Review

(a) After an application or registration is determined by the general manager to be administratively complete, the general manager shall commence a technical review of the application or registration as necessary and appropriate.

(b) The applicant or registrant shall be notified in writing of any additional material necessary for a complete technical review. If the applicant or registrant provides the information within 90 days of the date it is requested, the general manager shall complete the technical review of the application or registration. If the necessary additional information is not received by the general manager within 90 days of the date the information is requested and the information is considered essential by the general manager, the general manager may return the application or registration to the applicant. Decisions to return an application or registration to the applicant during the technical review phase shall be made on a case-by-case basis.

(c) The general manager, or his designee, is entitled to enter public or private property at any reasonable time and upon reasonable notice for the purpose of inspecting, investigating or verifying conditions or information submitted in connection with an application or registration.

9.417 General Manager's Proposed Action on Applications and Registrations; Technical Summaries

(a) Following completion of technical review, the general manager shall determine whether to recommend the proposed granting or denying of the application, or approval or disapproval of the registration. Except as provided in subsection (d), if the general manager recommends granting or approval, the general manager shall prepare a proposed permit or registration, or other authorization document, as appropriate. The proposed permit or registration is subject to change by the general manager during the course of the proceedings. The proposed permit or registration shall be available for public review and inspection. If the general manager recommends denial, the general manager shall prepare a proposed denial or disapproval consisting of the recommendation to deny or disapprove along with the technical summary stating the reasons for the proposal.

(b) Except as provided in subsection (d), in conjunction with the proposed permit, registration, other authorization, denial, or disapproval, the general manager shall prepare a technical summary that will include:

(1) a summary of the application or registration;

(2) the reasons and technical basis for the recommended action;

(3) if applicable, a summary of the proposed permit, registration, or authorization;

(4) if applicable any proposed special permit or registration conditions;

(5) notice that the general manager may modify the proposed action, or seek additional information from the applicant or registrant, in the course of proceeding on the application, registration, or other authorization; and

(6) as may be authorized by this subchapter, a statement that the applicant, other applicants, other registrants (pending or approved), or other permittees may file a request for a contested case hearing on the application no later than the 30th day after the date of publication of notice of the proposed action and technical summary.

(c) By certified mail, return-receipt requested, the general manager shall provide the applicant or registrant with a copy of the proposed action and the technical summary.

(d) This section applies to actions taken under §§ 9.423, 9.425, and 9.427, but does not apply to actions taken by the general manager under § 9.421.

9.419 Notice of Proposed Action on Applications

(a) For applications processed under § 9.423, notice of the proposed action and technical summary shall be provided as follows:

(1) the general manager shall prepare a notice of the proposed action and technical summary and forward a copy of the notice to the applicant at the time a copy of the proposed action and technical summary is mailed to the applicant under § 9.417(c);

(2) the general manager shall publish the notice in a newspaper of general circulation throughout the District's jurisdiction;

(3) within 10 days of publication of the notice, the District may consider a withdrawal without prejudice of the application by the applicant under § 9.435 and advise the applicant by certified mail, return-receipt requested, that the District considers the application as a matter of law to be withdrawn and that it will no longer process the application; and

(4) the notice must contain:

(A) a description of the proposed action, including permit and any conditions;

(B) a summary of the technical summary;

(C) a statement that a copy of the proposed action (including the proposed permit and conditions), technical summary, and application are available for inspection by the public at the offices of the District; and

(D) a statement that the proposed action will be presented to the Board for final action at a Board meeting conducted under the Texas Open Meetings Act no later than 60 days from the date of publication of the notice and that the applicant, other applicants, other registrants (pending or approved), or other permittees may attend the Board meeting and offer public comment or other data or information relevant to the application and proposed action.

(b) For applications processed under § 9.427, notice of the proposed action and technical summary shall be provided as follows:

(1) the general manager shall prepare a notice of the proposed action and technical summary and forward the notice to the applicant at the time a copy of the proposed action and technical summary is mailed to the applicant under § 9.417(d);

(2) the General Manager shall provide notice as follows:

(A) by service of the notice by certified mail, return-receipt requested, to the landowners adjoining the property on which the well(s), or proposed well(s), is or will be located;

(B) by publishing the notice in at least one newspaper of general circulation throughout the District's jurisdiction; and

(C) by posting a copy of the notice at the offices of the District and providing a copy to the county clerk to be posted at the county courthouse in the place where notices are usually and customarily posted;

(3) within 10 days of publication of the notice, the District may consider a withdrawal without prejudice of the application by the applicant under § 9.435 and advise the applicant by certified mail, return-receipt requested, that the District considers the application as a matter of law to be withdrawn and that it will no longer process the application; and

(4) the notice must contain:

(A) a description of the proposed action, including any permit conditions;

(B) a brief description of the technical summary;

(C) a statement that a copy of the proposed action (including the proposed permit and conditions), technical summary, and application are available for inspection by the public at the offices of the District; and

(D) a statement that the proposed action will be presented to the Board for final action at a Board meeting conducted under the Texas Open Meetings Act no later than 60 days from the date of publication of the notice unless, under § 9.607, the applicant, other applicants, other registrants (pending or approved), or other permittees file a request for contested case hearing with the District no later than 30 days after the date of publication of the notice in which event the matter shall be referred to a contested case hearing to be conducted under subchapter G of this chapter.

9.421 General Manager Action on Applications, Registrations, and Notices of Transfer of Ownership; Applicability; Board Review

(a) The Board delegates to the general manager the authority to approve the following:

(1) applications for existing, new or renewals of small production permits;

(2) applications for existing large production permits or renewals of existing large production permits;

(3) applications to amend a production permit based on:

(A) a transfer of the purpose of use;

(B) a transfer of the place of use (unless the amendment would constitute an exportation);

(C) a decrease in the rate of production;

(D) a decrease in the total annual volume of production;

(E) an increase in the rate of production of a small production well; or

(F) an increase in the total annual volume of production from a small production well;

(G) any increase in pipe diameter or rate of production that does not result in the applicability of increased minimum spacing requirements under § 5.407 and § 5.409.

(4) notices of transfers of ownership of any permit;

(5) applications for well reclassification;

(6) waiver of well spacing standards;

(7) applications for well drilling permits;

(8) applications to extend term of well drilling permit;

(9) well registrations, and amendments thereto, unless the matter involves the loss of exemption under § 5.209 from the duty to obtain a production permit under § 5.113;

(10) meter registrations, meter installation or modification notices, and meter removal or disabling notices;

(11) well driller and pump installer registrations; and

(12) corrective actions related to meters under §§ 5.519 and 9.507.

(b) Following technical review, the general manager may grant an application and issue a permit, or approve a registration, or grant other approval, under this section if the application or registration meets all of the criteria to be granted or approved as set out in the relevant section of the District's rules. The general manager may add conditions to the permit, registration, or other approval, as are appropriate, within the general manager's discretion. Sections 9.417, relating to proposed actions, and 9.419, relating to notice of proposed actions, do not apply to applications or registrations under this section. By certified mail, return-receipt requested, the general manager shall inform the applicant, registrant, or other filer of the decision on the application, registration, or other document and provide a copy of the permit, registration, or other approval, along with the technical summary providing the reasons why it was appropriate to grant the application or approve the registration. This subsection does not apply to notices of transfer of ownership.

(c) The applicant, registrant, or other filer may request that the Board review the general manager's action under this section at a Board meeting by filing a written request not later than 10 days from the date of the general manager's notification provided for in subsection (b). This subsection does not apply to notices of transfer of ownership.

9.423 Board Action on Applications and Registrations not Subject to Contested Case Hearings; Applicability; Scheduling of Board Meeting; Notice of Board Meeting Consolidation or Severance of Matters; Nature of the Board Meeting; Presentations Before the Board; Public Comment; Filing Comments or Other Materials; Board Orders

(a) This section applies to the following:

(1) proposed denial of any application or disapproval of any application, registration, or other document listed in § 9.421(a), except for notices of transfer of ownership;

(2) loss of exemption under § 5.209 from the duty to obtain a production permit under § 5.113;

(3) applications to extend the initial term of a groundwater exportation permit;

(4) applications under § 9.425 subject to contested case hearings in which no contested case hearing was timely requested, or all hearing requests were withdrawn; and

(5) any other application, or request for District approval, not otherwise specifically provided for in these rules.

(b) Following publication of the notice of proposed action under § 9.419(a), the general manager shall schedule the presentation of the application or registration and the proposed action to the Board at a meeting of the Board. The Board may reschedule the presentation of the application or registration and the proposed action as in its discretion is appropriate for the conduct of District business. By certified mail, return-receipt requested, the general manager shall provide 10 days advance notice to the applicant or registrant that the applicant's or registrant's matter is scheduled to be considered by the Board and of the date and location of the Board meeting. If rescheduled by the Board, the general manager shall send new notice of the rescheduled meeting. In addition, the general manager shall provide public notice that the application or registration and the proposed action shall be considered by the Board by including an item on the Board's agenda pursuant to the Texas Open Meetings Act. Except to the extent that such items contain information excepted from public disclosure under the Texas Public Information Act, copies of the application or registration and the proposed action shall be made available to the public for inspection and copying at the offices of the District during regular business hours.

(c) The Board may consolidate related matters, or sever unrelated matters, if the consolidation or severance will not injure any party and may save time and expense or otherwise benefit the public. The Board may hold special meetings on applications or registrations and the proposed action as in its discretion is most efficient for the conduct of District business.

(d) The Board meeting shall be conducted as an open meeting under the Texas Open Meetings Act. The meeting shall not be conducted as a contested case hearing, or other type of evidentiary hearing.

(e) The applicant or registrant and the general manager, or their representatives, may make oral presentations at the Board meeting at which the application or registration, technical summary, and proposed action are presented to the Board. In addition, public comment on the application or registration and the proposed action will be accepted. Oral presentations before the Board shall be limited to 15 minutes for each party or member of the public, excluding time for answering questions, unless the president establishes other limitations. The president may exclude or limit public comment that is repetitive, irrelevant, or unduly repetitious to the application or registration before the Board.

(f) In order to be included in the Board packet for consideration by the Board, written comments or other materials on matters set for a meeting of the Board must be filed with the

District no later than noon on the day that is 10 calendar days prior to the Board meeting. Written materials that are not pre-filed but are presented for the first time to the Board at the Board meeting may be admitted or excluded from consideration as the Board in its judgment deems appropriate.

(g) For matters that were contested but have become uncontested, if the Board has not acted on the application, the chairman may allow a person who testifies at the contested case hearing to supplement the testimony given at the hearing by filing additional written materials with the chairman not later than the 10th day after the date of the contested case hearing. A person who files additional written material with the chairman under this subsection must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on the uncontested application, or any party to the contested case hearing. A person who receives additional written material under this subsection may file a response to the material with the chairman not later than the 10th day after the date the material was received.

(h) Upon consideration of the application or registration, technical summary, proposed action, and oral presentations at its meeting, the Board may issue a final and appealable order granting or denying an application in whole or in part, or approve or disapprove a registration in whole or in part, modify or condition the proposed action, including the permit or registration, or other approval, or take any other appropriate action that in its judgment is appropriate.

(i) By certified mail, return-receipt requested, the general manager shall inform the applicant or registrant of the decision of the Board and provide copies of any orders, permits, or other documents issued by the Board addressing the application or registration.

9.425 Board Action on Applications Subject to Contested Case Hearings in which none was Requested or all Hearing Requests were Withdrawn

(a) This section applies to the applications listed in § 9.427(a) in which the following has occurred or been determined:

(1) no request for a contested case hearing was timely filed with the District; or

(2) all timely hearing requests have been withdrawn because of settlement, or for some other reason;

(3) there is no SCDA order issued for the area where the well is located;

(4) there are no changes to be made in the permit.

(b) Upon the occurrence of one of the conditions listed in subsection (a), the application shall be processed according to the procedures in § 9.423.

9.427 Board Action on Applications Subject to Contested Case Hearings

(a) This section applies to the following applications:

(1) applications for a new large production permit or renewals thereof;

(2) applications for amendments to large production permits that involve the applicability of increased minimum spacing standards under §§ 5.407 and 5.409;

(3) applications for a groundwater exportation permit, or renewals or amendments thereto, unless the amendment would decrease the total annual volume of production; and

(4) applications for a recharge injection well permit, renewals, or amendments thereto, unless the amendment:

(A) relates only to the person authorized to operate the recharge injection wells;

(B) would result in a decrease in the rate of recharge; or

(C) would result in a decrease in the volume of source water injected.

(b) The applications listed in subsection (a) shall be processed according to the procedures in § 9.425 or subchapter G of this chapter, as may be applicable.

9.429 Corrections to Applications or Registrations

Except as provided in § 9.433, an applicant or registrant may correct any information filed in an application or registration at any time.

9.431 Supplementation of Applications or Registrations

Except as provided in § 9.433, an applicant or registrant may file any additional information to supplement information already filed in an application or registration at any time.

9.433 Amendments to Applications or Registrations

(a) Any amendment to an application or registration that substantively changes the nature and scope of the application may be made by the applicant no later than the date of the publication of the notice of proposed action under § 9.419. Any timely amendments must be in the form of the original application and in compliance with subchapter D of this chapter. Any amendment made after the date of the publication of the notice of proposed action must be filed with the District as a new application. A change that is editorial, a correction of previously submitted information, or the supplementation of additional information to support an element of the application is non-substantive. A change is an amendment if it alters the place of use, purpose of use, increase in the rate of production, increase in the annual amount of production, change in the location of the well(s), or increases the number of wells.

(b) Any amendment to a registration that substantively changes the nature and scope of the registration may be made by the registrant no later than the date of the advance notice to the registrant of the date and location of the Board meeting under § 9.423(b).

9.435 Withdrawal of Applications or Registrations

(a) At any time prior to the final action taken on an application, an applicant may withdraw the application. The withdrawal must be in writing. If the withdrawal is with prejudice, the Board shall issue an order dismissing the application with prejudice. If the request to withdraw is without prejudice, the general manager must agree, in writing, to the withdrawal. If the general manager agrees, the general manager shall submit a recommendation to the Board that shall include the reasons why the withdrawal is in the District's interest. The Board may issue an order dismissing the application without prejudice or may decline to dismiss the application. For purposes of this section, a withdrawal with prejudice means that the applicant waives any potential right to re-file that application, and a withdrawal without prejudice means that the applicant seeks to preserve any potential right to re-file that application. Following a dismissal without prejudice, the applicant may file a new application.

(b) An applicant may withdraw an application without prejudice if the withdrawal request is made within 10 days of publication of notice of proposed action under § 9.421(b).

(c) At any time prior to the final action taken on a registration, a registrant may withdraw its registration without prejudice.

9.437 Corrected Permits or Registrations

The general manager, on his own action or at the request of a permittee, may make non-substantive corrections to any permit or registration either by reissuing the permit or reapproving the registration, without complying with § 9.439. By certified mail, return-receipt requested, the general manager shall inform the permittee or registrant by providing a copy of the corrected permit or registration. Non-substantive permit or registration corrections include the following:

(1) clerical or typographical errors;

(2) if updated information is provided by the permittee, changes to the permittee's or registrant's name (not including the addition of new permittees or registrants) or mailing address, or a change to describe more accurately the unchanged location of the well(s) or place of use;

(3) updates or redrawings of maps incorporated by reference in a permit or registration; and

(4) a more accurate statement or update of any other information in a permit or registration, without changing the authorizations or requirements contained therein.

9.439 Amended Permits or Registrations

Except as provided in § 9.437, any change to a permit or registration is an amendment that must be approved by the general manager or the Board, as appropriate.

Subchapter F Special Actions

9.501 Purpose
9.503 Applicability
9.505 Cancellation of Registrations
9.507 Corrective Action for Meters

9.501 Purpose

The purpose of this subchapter is to provide for special procedures governing the processing of certain matters that require reconsideration in light of new information.

9.503 Applicability

This chapter applies to the processing by the District of the reconsideration of certain actions in light of new information.

9.505 Cancellation of Registrations

If pursuant to § 5.209, the general manager receives information indicating that the well no longer qualifies as a well exempt from the duty to obtain a production permit under § 5.113, or otherwise, the general manager shall notify the well owner of receipt of such information and process the matter under §§ 9.415, 9.417, and 9.423

9.507 Corrective Action for Meters

If the general manager receives information indicating that corrective action may be required for a meter under § 5.519, or otherwise, the general manager shall notify the well owner of receipt of such information and process the matter under §§ 9.415, 9.417, and 9.423.

Subchapter G Contested Case Hearings

9.601 Purpose
9.603 Applicability
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9.701 Decision Final and Appealable
9.703 Appeal of Final Decision
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9.601 Purpose

The purpose of this subchapter is to provide for the procedures to be applied to contested case hearings before the District.

9.603 Applicability

This subchapter applies to matters subject to a contested case hearing under § 9.427(a) for which a timely request for contested case hearing is pending before the District and the request has not been withdrawn because of settlement, or for some other reason.

9.605 Persons Entitled to Request a Contested Case Hearing

The following persons may request a contested case hearing on an application subject to this subchapter:

(1) the applicant;

(2) any other person having a personal justiciable interest who also is a permittee or registrant of the District; and

(3) any other person having a personal justiciable interest who has an application or registration pending before the District.

9.607 Contents of Requests for Contested Case Hearing

(a) Requests for a contested case hearing must be in writing and filed by United States mail, facsimile, or hand delivery with the District within the time provided by § 9.609.

(b) A hearing request must substantially comply with the following:

(1) give the name, physical and mailing address, daytime telephone number, fax number, and email address of the person filing the request. If the request is made by a

corporation, partnership, or other business entity, the request must identify the entity and one person by name, physical and mailing address, daytime telephone number, fax number, and email address, who shall be responsible for receiving all documents on behalf of the entity;

(2) state the specific factual basis for the contention that the person will be injured and has a personal justiciable interest in the matter such that a contested case hearing is appropriate;

(3) state whether the person is the applicant, a permittee or registrant of the District, or has an application or registration pending before the District;

(4) request a contested case hearing; and

(5) be verified by an affidavit.

(c) Where a request for a contested case hearing is filed by a person other than the applicant, a copy of that request must be served on the applicant at or before the time that the request is filed with the District. The request shall include a certificate indicating the date and manner of service and the name and address of all persons served.

(d) If a person is requesting a contested case hearing on more than one application, a separate request must be filed in connection with each application.

9.609 Deadline for Filing of Request for Contested Case Hearing

A request for a contested case hearing must be filed with the District no later than the 30th day after the date of publication of notice of the proposed action and technical summary. Hearing requests not timely filed shall not be processed and shall be returned by the general manager to the person filing the request.

9.611 Processing of Hearing Requests

(a) Except as provided in subsection (d), the general manager shall schedule the contested case hearing request for a Board hearing. At least 30 days prior to the Board hearing, the general manager shall provide notice to the applicant and other persons making a timely hearing request of the hearing. The Board may receive relevant oral testimony or documentary evidence at a Board hearing during which the contested case hearing request is evaluated.

(b) Persons may submit a written response to the hearing request no later than 10 days before the hearing at which the Board shall consider the request. Responses shall be filed with and served on the general manager, the applicant and any persons filing a hearing request in connection with that matter. The response should address the question of whether the person requesting the contested case hearing has a personal justiciable interest related to the application at issue.

(c) The Board shall evaluate the hearing request at the scheduled Board hearing and shall determine that the person requesting the hearing:

(1) does not have a personal justiciable interest related to the application and deny the hearing request and not admit the person as a party to the hearing; or

(2) has a personal justiciable interest relating to the application, refer the application to a contested case hearing, and admit the person as a party to the hearing.

(d) The Board may delegate to a hearings examiner the processing of requests for contested case hearing.

9.612 Request for Referral of Contested Case Hearing to State Office of Administrative Hearings

(a) An applicant or another party to a contested case hearing granted pursuant to §§ 9.609 and 9.611 may request that the District contract with the State Office of Administrative Hearings (SOAH) to conduct the hearing. Such a request must be in writing and must be received by the District by no later than ten days following the Board's granting of a request for contested case hearing under § 9.611.

(b) The party or parties requesting the hearing before SOAH shall pay all costs associated with the contract for the hearing and shall deposit with the District an amount sufficient to pay the contract amount before the hearing begins, to be divided on a pro rata basis if there is more than one party requesting the SOAH hearing. At the conclusion of the hearing, the District shall refund any excess money to the party of parties requesting the SOAH hearing.

9.613 Authority to Conduct Contested Case Hearings; Delegation; Applicable Procedural Rules; Presiding Officer

(a) A quorum of the Board may conduct any contested case hearing.

(b) By order, the Board may also delegate the authority to conduct a hearing and refer the matter to an individual to whom the Board has delegated the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing, including a SOAH administrative law judge.

(c) Except for a hearing referred to SOAH, the procedures provided in this subchapter apply to contested case hearings. If the Board refers a contested case hearing to SOAH, then the hearing shall be conducted as provided by Subchapters C, D, and F, Chapter 2001, Government Code, and the applicable rules of practice and procedure of SOAH (Title 1, Chapter 155, TEX. ADMIN. CODE, as may be amended) govern any contested case hearing of the District conducted by SOAH, as supplemented by this subchapter.

(d) In contested case hearings before the Board, the president of the Board shall be the presiding officer. The president of the Board may delegate this function to another Board member. In the event the president of the Board is not present at a contested case hearing and no delegation has been made to another Board member, the directors conducting the hearing may select a director

to serve as the presiding officer. In hearings referred to a hearings examiner, the hearings examiner shall be the presiding officer.

(e) If a contested case hearing is referred by the Board, the general manager shall prepare all documents necessary to assist the hearings examiner in preparing for the hearing.

9.615 Authority of Presiding Officer

The presiding officer may conduct a contested case hearing proceeding in the manner the presiding officer deems most appropriate for that particular proceeding. The presiding officer has the authority to:

(1) set hearing dates;

(2) convene the hearing at the time and place specified in any notice of hearing;

(3) establish the jurisdiction of the District concerning the subject matter under consideration;

(4) receive testimony or documentary evidence;

(5) rule on motions and on the admissibility of evidence and amendments to pleadings;

(6) designate and align parties and establish the order for presentation of evidence;

(7) administer oaths to all persons presenting testimony;

(8) hear arguments;

(9) examine persons presenting testimony;

(10) compel discovery, in accordance with this subchapter;

(11) prescribe reasonable time limits for testimony and the presentation of evidence and ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;

(12) conduct hearings in an orderly manner, in accordance with this subchapter;

(13) recess any hearing from time to time and place to place;

(14) reopen the record of a hearing for additional evidence, when necessary to make the record more complete;

(15) issue an order that refers a case to an alternative dispute resolution procedure, determines how the costs of the procedure shall be apportioned, and appoints an impartial third party to facilitate that procedure; and

(16) generally enforce procedural rules and exercise any other appropriate powers necessary or convenient, to effectively carry out the responsibilities of presiding officer.

9.617 Prehearing Conferences

(a) The presiding offer may hold a prehearing conference to consider any matter that may expedite the hearing or otherwise facilitate the hearing process.

(b) Matters that may be considered at a prehearing conference include, but are not limited to:

(1) withdrawal of protest;

(2) designation of parties;

(3) additional formulation and simplification of issues;

(4) necessity or desirability of amending applications or other pleadings;

(5) possibility of making admissions or stipulations;

(6) scheduling discovery;

(7) identification of and specification of the number of witnesses;

(8) filing and exchange of prepared testimony and exhibits; and

(9) procedure at the hearing.

(c) A prehearing conference may be held at a date, time and place stated in the notice given in accordance with § 9.619, and may be continued from time to time and place to place, at the discretion of the presiding officer.

(d) Action taken at a prehearing conference may be reduced to writing and made a part of the record, or may be stated on the record at the close of the conference.

9.619 Notice of Contested Case Hearing

(a) After a hearing date or a date for a prehearing conference is set by the presiding officer, the presiding officer shall notify the general manager. The general manager shall prepare a notice of contested case hearing and forward the notice to the applicant along with a certified list of the names and mailing addresses of the landowners adjoining the property on which the well(s), or proposed well(s), is or will be located. The general manager shall advise the applicant that the published notice must not be smaller than 15 square inches with the shortest dimension at least three inches.

(b) Notice of the hearing shall be provided by the general manager, at the applicant's cost, as follows:

(1) by service in writing by certified mail, return-receipt requested, to the applicant;

(2) by service in writing by certified mail, return-receipt requested, to landowners adjoining the property on which the well(s), or proposed well(s), is or will be located;

(3) by regular first class mail, facsimile, or electronic mail to any person who has requested notice under Subsection (e);

(4) by publishing the notice in at least one newspaper of general circulation throughout the District's jurisdiction; and

(5) by posting in a place readily accessible to the public a copy of the notice at the offices of the District and providing a copy of the notice to the county clerk to be posted at the county courthouse in the place where notices are usually and customarily posted.

(c) The dates of service, publication, and posting may not be less than 35 calendar days before the date set for the initial hearing and 10 days before the date set for any other hearing.

(d) The notice of hearing must contain:

(1) a statement of the time, date, and place of the hearing or prehearing conference;

(2) a statement of the nature of the hearing or prehearing conference;

(3) a statement of the legal authority and jurisdiction under which the hearing is to be held, with references to the particular sections of any statutes or rules involved;

(4) the name and address of the applicant;

(5) the date the application was filed;

(6) a description of the nature of the application that was filed, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;

(7) the location and purpose of the well or wells from which the water is or will be produced;

(8) a description of the boundaries of the land or site on which the well is or will be located;

(9) the amount of groundwater and rate of production applied for in the application;

(10) a description of the proposed action recommended by the general manager, including the technical summary, proposed permit and permit conditions;

(11) a statement that a copy of the proposed action (including the proposed permit and conditions), technical summary, and application are available for inspection by the public at the offices of the District; and

(12) any additional information the District considers appropriate.

(e) A person may request notice from the District of a contested case hearing. The request must be in writing and is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request.

(f) An affidavit of the officer or employee of the District establishing attempted service by first class mail, facsimile, or electronic mail to any person who has requested notice under Subsection (e) shall serve as proof that notice was provided by the District.

9.620 Consolidated Hearings

Upon written request of the applicant or applicants, or at the discretion of the District, the District shall process multiple applications under consolidated notice and hearing procedures under this subchapter. However, if the Board cannot adequately evaluate one application until it has acted on another application, consolidated notice and hearing procedures will not be employed.

9.621 Time and Place of Hearing

(a) A contested case hearing may be held in conjunction with any regular or special meeting of the Board, or a separate proceeding may be convened apart from a Board meeting for the purpose of holding a hearing.

(b) Contested case hearings must be held at the District office or regular meeting location of the Board unless the Board provides for hearings to be held at a different location.

9.623 Entry of Appearance

Any party may in writing make an entry of appearance prior to a hearing. Any party may also appear at the hearing, in person or by attorney, and enter his or her appearance in writing.

9.625 Hearing Registration Forms

Any person attending or participating in a contested case proceeding of the District must submit a hearing registration form providing the person's name and address, whether the person is a party or a non-party member of the public, or a witness, or a representative of one of these persons, and if applicable, the person or entity he or she represents.

9.627 Designation of Parties; Representatives; Right of Parties

(a) The presiding officer may only admit as parties the general manager, the applicant, and any person who timely requested a contested case hearing that was granted by the Board.

(b) Any party may appear in person, or may be represented by counsel, or other representative, provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation in support of, or objections, to the issuance of a permit in accordance with the procedures applicable to the particular proceeding. A person appearing in a representative capacity may be required to prove proper authority.

9.629 Alignment of Parties; Number of Representatives Heard

Parties to a contested case hearing may be aligned according to the nature of the proceeding and their relationship to it. The presiding officer may require the parties of an aligned class to select one or more persons to represent them in the proceeding, or on any particular matter or ruling, and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding, or on any particular matter or ruling.

9.631 Appearance by Party Requesting Hearing

The party requesting a hearing, or a representative thereof, should be present at the hearing. Failure to appear may be grounds for withholding consideration of a matter and dismissal without prejudice, or may require the rescheduling or continuance of the hearing, if the presiding officer deems it necessary in order to fully develop the record.

9.633 Burden of Proof

The burden of proof is on the applicant to establish by a preponderance of the evidence that the applicant is entitled to have the application granted.

9.635 Witnesses; Undue Broadening of Issues

(a) Except as provided by subsection (b), only those persons called by a party as a witness may testify at a contested case proceeding.

(b) The presiding officer may compel any person to testify who is necessary, helpful, or appropriate to the hearing.

(c) The presiding officer shall administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

(d) The presiding officer shall not allow any person to present testimony in any hearing or other proceeding who, in the opinion of the presiding officer, is testifying for the sole purpose

of unduly broadening the issues to be considered in the hearing or other proceeding to matters that are not material or relevant to the application that is the subject of the hearing.

9.637 Affidavits

Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or the party's representative or counsel. This rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.

9.639 Discovery

Discovery shall be conducted upon such terms and conditions, and at such times and places, as directed by the presiding officer. Unless specifically modified by this subchapter or by order of the presiding officer, discovery shall be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the presiding officer.

9.643 Ex Parte Communications

Neither the presiding officer nor the Board may communicate, directly or indirectly, in connection with any issue of fact or law with any party, or their representative, except on notice and opportunity for all parties to participate. This provision does not prevent communications with District staff not directly involved in the hearing in order to utilize the special skills and knowledge of the District in evaluating the evidence and does not apply to proceedings other than a contested permit hearing.

9.645 Evidence

The presiding officer shall admit evidence that is relevant to an issue at the hearing. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious. The Texas Rules of Evidence may be referred to in order to determine the admissibility and introduction of evidence. However, evidence not admissible under the Texas Rules of Evidence may be admitted if it is relevant and of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.

9.647 Written Testimony

When a proceeding will be expedited and the interests of the parties not substantially prejudiced, the presiding officer may allow testimony to be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness shall be subject to clarifying questions and to cross-examination, and the prepared testimony shall be subject to objection. On the motion

of a party, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.

9.649 Requirements for Exhibits

Exhibits of a documentary character must be of a size that will not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may not exceed 8 by 11 inches in size.

9.651 Abstracts of Documents

When documents are numerous, the presiding officer may receive in evidence only those that are representative and may require the abstraction of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.

9.653 Introduction and Copies of Exhibits

Each exhibit offered shall be tendered for identification and placed in the record. Copies must be furnished to the presiding officer and to each of the parties, unless the presiding officer rules otherwise.

9.655 Excluding Exhibits

In the event an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit shall be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit shall be included in the record for the purpose of preserving the objection to excluding the exhibit.

9.657 Official Notice

The presiding officer may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.

9.659 Documents in District Files

Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.

9.661 Oral Argument

At the discretion of the presiding officer, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The presiding officer may require or accept written briefs in lieu of, or in addition to, oral arguments. For a contested case

conducted under § 9.613(a), when the matter is presented to the Board for final decision, further oral arguments may be heard by the Board.

9.663 Reporting

(a) Contested case hearings, and associated proceedings, shall be recorded by the presiding officer on audio cassette tape, video recording, or recorded by a certified court reporter, at the discretion of the presiding officer. The District does not prepare transcriptions of hearings recorded on audio cassette tape or video recording on District equipment for the public, but shall arrange for a party to have access to the recording.

(b) On the request of a party to a contested hearing, the presiding officer shall have the hearing transcribed by a court reporter. The presiding officer may assess any court reporter transcription costs against the party that requested the transcription, or among the parties to the hearing.

In assessing costs, the presiding officer shall consider the following factors in assessing reporting and transcription cost:

(c) The presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this section. The presiding officer may not exclude a party from further participation in a hearing if the parties have agreed that the costs assessed against that party will be paid by another party..

(1) the party who requested the transcript;

(2) the financial ability of the party to pay the costs;

(3) the extent to which the party participated in the hearing;

(4) the relative benefits to the various parties of having a transcript;

(5) the budgetary constraints of a governmental entity participating in the proceedings; and

(6) any other factor that is relevant to a just and reasonable assessment of costs.

(d) In any proceeding where the assessment of reporting or transcription costs is at issue, the presiding officer shall provide the parties an opportunity to present evidence and argument on the matter. A recommendation regarding the assessment of costs will be included in the presiding officer's report to the Board.

(e) If a proceeding other than a contested case hearing is recorded by a reporter and a copy of the transcript of testimony is requested by any person, the testimony shall be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony.

(f) Copies of the transcript of testimony of any hearing, or other proceeding may be purchased from the reporter.

9.665 Continuances

The presiding officer may continue hearings from time to time and from place to place. Except for contested cases conducted under § 9.613(a) to which the Texas Open Meetings Act applies, a matter may be continued without the necessity of publishing, serving, mailing or otherwise issuing any new notices. If a hearing or other proceeding is continued and a time and place (other than the District's business office) for the hearing to reconvene are not publicly announced at the hearing by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding must be served at a reasonable time to all parties and any other person the presiding officer by regular mail. It is not necessary to post notice of the new setting at the county courthouse or to publish such notice in a newspaper. A continuance may not exceed the time limit for the issuance of a final decision under Section 36.4165, Water Code.

9.667 Conduct and Decorum

Every person participating in or observing a contested case hearing, or other associated proceeding, must conform to ethical standards of conduct and exhibit courtesy and respect for all other participants or observers. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If, in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer shall first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.

9.669 Informal Hearings

Contested case hearings may be conducted informally when, in the judgment of the presiding officer, the conduct of a proceeding under informal procedures will result in a savings of time or cost to the parties, lead to a negotiated or agreed settlement of facts or issues in controversy, not prejudice the rights of any party, and is not objected to by any party. The procedures to be used during such informal hearing shall be established in an order of the presiding officer and the agreement of each party shall be indicated on the order.

9.671 Agreement of Parties; Remand to Board

(a) No agreement between parties or their representatives affecting any pending matter shall be considered by the presiding officer unless it is in writing, signed, and filed as part of the record, or unless it is announced at the prehearing conference or the hearing and entered of record.

(b) An agreed disposition of a contested case may be made by stipulation, settlement, consent order, or the withdrawal of all requests for a contested case hearing so that no facts or issues remain controverted. Except for contested cases conducted under § 9.613(a), upon

settlement of a matter, the presiding officer shall remand the matter to the Board. If the person requesting the contested case hearing defaults, then the presiding officer may also deem the request for a contested case hearing to have been withdrawn by the person and remand the case to the Board. Applications remanded under this section shall be considered to be an uncontested application and shall be considered under § 9.425. The presiding officer shall summarize the evidence, including findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing. Any stipulations, settlements, consent orders, withdrawals of requests for contested case hearing, orders, findings of default, presiding officer summary of the proceedings, and other relevant documents shall be presented to the Board for its consideration.

9.673 Alternative Dispute Resolution

If during an informal proceeding, all parties do not reach a settlement to resolve the matters in controversy and the Board has not taken final action on the application, the presiding officer at his discretion, by order, may refer all or part of the proceeding to alternative dispute resolution. A party may present evidence or arguments for the presiding officer to consider as to why alternative dispute resolution is not appropriate. Any order referring the matter to alternative dispute resolution shall determine how the costs of the procedure shall be apportioned among the parties, and appoint an impartial third party as provided by Section 2009.053, Government Code, to facilitate that procedure. Any matter referred to alternative dispute resolution procedures shall be conducted in the manner provided for under Chapter 2009, Government Code.

9.675 Decision to Proceed to Formal Hearing

If the parties do not reach a settlement to resolve the matters in controversy, or if any party contests the general manager's recommendation, and the presiding officer determines that settlement is not likely, then the presiding officer may void the order to proceed under informal procedures and order the case to proceed under the formal procedural rules provided in this subchapter and convene a prehearing conference.

9.677 Certified Questions

(a) Except for contested cases conducted under § 9.613(a), at any time during a contested case hearing, on a motion by a party or on the presiding officer's own motion, the presiding officer may certify a question to the Board.

(b) Issues regarding District policy, jurisdiction, or the imposition of any sanction by the presiding officer that would substantially impair a party's ability to present its case are appropriate for certification. Policy questions for certification purposes include, but are not limited to:

(1) the Board's interpretation of its rules and applicable statutes;

(2) which rules or statutes are applicable to a proceeding; and

(3) whether Board policy should be established or clarified as to a substantive or procedural issue of significance to the proceeding.

(c) If a question is certified, the presiding officer shall submit the certified question to the general manager. The general manager shall place the certified question on the agenda of the earliest possible meeting of the Board that is not earlier than 20 days after its submission. The general manager shall give the presiding officer and the parties notice of the meeting at which the certified question will be considered. Within 10 days after the certified question is filed, parties to the proceeding may file briefs on the certified question. Within 10 days of the filing of such briefs, parties may file responses to any briefs. Briefs and responses shall be filed with the general manger with copies served on the presiding officer. The general manager shall provide copies of the certified questions and any briefs and responses to each Board member. The presiding officer may abate the hearing until the Board answers the certified question, or continue with the hearing if the presiding officer determines that no party will be substantially harmed. The process for seeking Board answers to certified questions shall be considered as part of the contested case hearing process or the alternative dispute resolution process.

(d) The Board shall issue a written decision on the certified question within 30 days following the meeting at which the certified question is considered. A decision on a certified question is not subject to a motion for rehearing, appeal or judicial review prior to the issuance of the Board's final decision in the proceeding.

9.679 Closing the Record; Supplementation

At the conclusion of the presentation of evidence and any oral argument, and the Board has taken no final action on the application, the presiding officer may either close the record or, keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties, including supplemental testimony given by a person who testifies at the hearing by filing additional written materials with the presiding officer. Any supplementation of the record must be filed not later than the 10th day after the date of the final hearing. A person who files additional written material with the presiding officer under this section must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on an uncontested application under § 9.423, or any party to a contested hearing. A person who receives additional written material under this section may file a response to the material with the presiding officer not later than the 10th day after the date the material was received. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the presiding officer.

9.681 Proposal for Decision; Proposed Order

(a) Except for contested cases conducted under § 9.613(a), no later than 30 days following the completion of the contested case hearing, the presiding officer shall submit a proposal for decision to the District and serve a copy on the applicant, each person who provided comments, or each designated party to the contested case. A proposal for decision shall include a summary of the subject matter of the hearing, a summary of the evidence or public comments received, and the presiding officer's recommendations for Board action on the subject matter of

the hearing. The presiding officer, when submitting the proposal for decision, shall notify the parties of the deadlines for the filing of exceptions and replies.

(b) In contested cases conducted under § 9.613(a), following the completion of the contested case hearing, the presiding officer may prepare and submit a proposal for decision to the Board, and issue a proposed order, file such proposal for decision and order with the general manager, and serve a copy on each applicant, each person who provided comments, or each designated party to the contested case. The proposal for decision and proposed order shall include a summary of the subject matter of the hearing, a summary of the evidence or public comments received, and the presiding officer's recommendations for Board action on the subject matter of the hearing. The presiding officer, when issuing the proposal for decision and proposed order, shall notify the parties of the deadlines for the filing of exceptions and replies.

9.683 Waiver of Right to Review Presiding Officer's Proposal for Decision or Proposed Order

Any party may waive the right to review and comment upon the presiding officer's proposal for decision or proposed order. The waiver shall be either in writing or stated on the record at the hearing.

9.685 Pleadings Following Proposal for Decision or Proposed Order

(a) Unless right of review has been waived, any party to the contested case hearing may, within 20 days after the date of the presiding officer's submittal of the proposal for decision or issuance of the proposed order, file exceptions or briefs in response to the proposal for decision or proposed order with the general manager. Replies to exceptions or briefs, if any, shall be filed within 30 days after the date of submittal of the proposal for decision or issuance of the proposed order. Such exceptions, briefs or replies may include proposed findings of fact.

(b) The presiding officer may file an amended proposal for decision or amended proposed order in response to exceptions, replies, or briefs submitted by the parties. The parties are not entitled to file exceptions or briefs in response to the amended proposal for decision or amended proposed order, but may raise any issues before the Board as permitted by the Board at the time of oral presentation.

9.686 Proposal for Decision From Administrative Law Judge

In a proceeding in which the contested case hearing has been referred to SOAH, the Board has the authority to make a final decision on consideration of the proposal for decision issued by an administrative law judge in accordance with Section 2001.058, Government Code.

9.687 Scheduling of a Meeting of the Board

(a) After receiving the proposal for decision or proposed order, the general manager shall schedule the presentation of the proposal for decision or proposed order to the Board. The general manager shall provide notice to the parties of the date of the Board meeting at which the

proposal for decision or proposed order will be presented and considered. The Board may reschedule the presentation of the proposal for decision or proposed order. The general manager shall send notice of the rescheduled meeting date to the parties no later than 10 days before the rescheduled meeting.

(b) Consistent with notices required by law, the Board may consolidate related matters if the consolidation will not injure any party and may save time and expense or otherwise benefit the public interest and welfare.

(c) The Board may sever issues in a proceeding or hold special hearings on separate issues if doing so will not injure any party and may save time and expense or benefit the public interest and welfare.

9.689 Oral Presentation Before the Board

(a) Any party to the contested case hearing may make an oral presentation at the Board meeting in which the proposal for decision in that case is presented to the Board.

(b) Any party to the contested case hearing may make an oral presentation at the Board meeting in which the proposed order in that case is considered by the Board.

(c) Oral presentations before the Board shall be limited to 5 minutes each, excluding time for answering questions, unless the president establishes other limitations. Before the Board meeting, the president may allot time for oral presentations. Oral presentations and responses to questions shall be directed to the Board.

9.691 Reopening the Record

The Board, on the motion of any party to a contested case or on its own motion, may order the presiding officer to reopen the record for further proceedings on specific issues in dispute. The order shall include instructions as to the subject matter of further proceedings and the presiding officer's duties in preparing supplemental materials or revised proposals based upon those proceedings for the Board's adoption.

9.693 Decision

(a) No later than the 180th day after the date of receipt of the final proposal for decision from the presiding officer, the Board shall render its final decision. This deadline may be extended if all parties agree to the extension.

(b) The decision must be in writing and must either adopt the proposed findings of fact and conclusions of law as proposed by the presiding officers or include revised findings of fact and conclusions of law consistent with subsection (d). The Board shall provide certified copies of the findings and conclusions to the person who requested them, and to each person who provided comments or each designated party, not later than the 35th day after the date the Board received the request. A person who receives a certified copy of the findings and conclusions from the Board

may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.

(c) Findings of fact may be based only on the evidence and on matters that are officially noticed. If set forth in statutory language, findings of fact must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(d) If a party submits proposed findings of fact under § 9.685, the decision shall include a ruling on each proposed finding.

(e) The Board may change a finding of fact or conclusion of law made by the presiding officer, or may vacate or modify an order issued by the presiding officer, only if the Board determines:

(1) that the presiding officer did not properly apply or interpret applicable law, District rules, written policies provided to the presiding officer by the District pursuant to § 9.613(d) of the District's rules, or prior administrative decisions:

(2) that a prior administrative decision on which the presiding officer relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(f) The board is considered to have adopted a final proposal for decision of the presiding officer as its final order on the 181st day after the date the presiding officer issued the final proposal for decision if the Board has not issued a final decision by:

(1) adopting the findings of fact and conclusions of law as proposed by the administrative law judge; or

(2) issuing revised findings of fact and conclusions of law as provided by subsection (d).

(g) A proposal for decision adopted under subsection (e) is final, immediately appealable, and not subject to a request for rehearing.

9.695 Notification of Decisions and Orders

(a) The District shall notify all parties in a contested case either personally or by certified mail, return-receipt requested, of any decision or order.

(b) The District shall send a copy of the decision or order in a contested case by first class mail to attorneys of record and shall keep an appropriate record of the mailing. If a party is not represented by an attorney, the District shall send a copy of the decision or order by first class mail to the party and shall keep an appropriate record of the mailing.

(c) A party or attorney of record notified by mail under subsection (b) is presumed to have been notified on the third day after the date on which the notice is mailed.

9.697 Motion for Rehearing

(a) Filing motion. Only a party to the contested case proceeding may file a motion for rehearing. The motion shall be filed with the general manager within 20 days after the date the party or his attorney of record is notified of the decision or order. On or before the date of filing of a motion for rehearing, a copy of the motion shall be mailed or delivered to all parties with certification of service furnished to the District.
The motion shall contain:

(1) the name and representative capacity of the person filing the motion;

(2) the style and official docket number assigned by the presiding officer, and official docket number assigned by the District;

(3) the date of the decision or order; and

(4) a concise statement of each allegation of error.

(b) Reply to motion for rehearing. Only a party to the contested case proceeding may reply to a motion for rehearing. A reply to a motion for rehearing must be filed with the general manager within 30 days after the date a party or his attorney of record is notified of the decision or order.

(c) Ruling on motion for rehearing.

(1) Upon the request of a Board member, the motion for rehearing shall be scheduled for consideration during a Board meeting. Unless the Board extends time or rules on the motion for rehearing, the failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

(2) A motion for rehearing may be granted in whole or in part. When a motion for rehearing is granted, the decision or order is nullified. The Board may reopen the hearing to the extent it deems necessary. If the Board grants a motion for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted.

(3) If a motion for rehearing is granted, the Board shall make a final decision on the application not later than the 90th day after the date of the decision of the Board that was the subject of the motion for rehearing.

(d) Extension of time limits. With the agreement of the parties or on its own motion, the Board may, by written order, extend the period of time for filing motions for rehearing and replies and for taking action on the motions so long as the period for taking District action is not extended beyond 90 days after the decision or order.

(e) Motion overruled. In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 90 days after the date of the decision or order.

(f) If multiple parties to a contested case hearing file motions for rehearing, the board shall consolidate such motions and may consider only one rehearing per matter.

9.699 Agreement to Modify Time Limits

The parties to a contested case, with the approval of the Board, may agree to modify the times prescribed by §§ 9.693 and 9.697 of the District's rules.

9.701 Decision Final and Appealable

In the absence of a timely filed motion for rehearing, a decision or order of the Board is final on the expiration of the period for filing a motion for rehearing. If a party files a timely motion for rehearing, a decision or order of the Board is final and appealable on the date: (1) of the order overruling the motion for rehearing; (2) the motion is overruled by operation of law, or (3) the Board renders a written decision after rehearing.

9.703 Appeal of Final Decision

(a) A filing of a timely motion for rehearing or request for findings of fact and conclusions of law is a prerequisite to appeal.

(b) Not later than the 60th day after the date on which the decision of the Board becomes final, an applicant or a party to a contested case hearing may file an administrative appeal of the District's decision under § 36.251, Texas Water Code, to appeal a final decision on an application for a permit or permit amendment. An applicant or a party to a contested hearing may not file suit against the District under § 36.251 if a request for rehearing was not filed on time.

(c) The record. The record in a contested case shall include the following:

(1) all pleadings, motions and intermediate rulings;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections and rulings on them;

(5) summaries of the results of any conferences held before or during the hearing;

(6) proposed findings, exceptions and briefs;

(7) any decision, opinion or report issued by the presiding officer;

(8) pre-filed testimony;

(9) all memoranda or data submitted to or considered by the presiding officer; and

(10) the final order and all interlocutory orders.

9.705 Costs of Record on Appeal

A party who appeals a final decision in a contested case shall pay all costs of preparation of the record of the proceeding that is required to be transmitted to the reviewing court. A charge imposed as provided by this section is considered to be a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

CHAPTER 10 ENFORCEMENT

Subchapter A General Provisions

10.001 Purpose
10.003 Right to Enter Land
10.005 Rule Enforcement

10.001 Purpose

The purpose of this chapter is to provide for the enforcement of the District's rules.

10.003 Right to Enter Land

(a) The directors, engineers, attorneys, agents, operators, and employees of the District may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the District.

(b) District employees and agents are entitled to enter any public or private property within the boundaries of the District, or adjacent to any reservoir or other property owned by the District, at any reasonable time for the purpose of:

(1) inspecting and investigating conditions relating to the quality of water in the state; or

(2) the compliance with any rule, regulation, permit, or other order of the District.

(c) District employees or agents acting under this authority who enter private property shall observe the establishment's rules concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

10.005 Rule Enforcement

(a) The District may enforce the District Act, its Rules, and Chapter 36, Texas Water Code by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

(b) If the District prevails in any suit to enforce its rules, the District may seek and the court shall grant, in the same action, civil penalties, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court.

(c) Civil penalties for breach of any rule of the District shall be not less than $100 per day per violation and not more than $25,000 per day per violation.

(d) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced by complaint filed in an appropriate court of jurisdiction in the District.