

FOR CONSIDERATIONS AND DISCUSSIONS AT RULES COMMITTEE MEETING
MAY 26, 2021

RULE 1.1. DEFINITION OF TERMS.

"Desired Future Conditions" (DFCs) means quantitative descriptions, adopted in accordance with Section 36.108, as may be amended, together with relevant scientific and hydrogeological data, of the desired condition of the groundwater resources in Groundwater Management Areas 8 and 12 that are adopted for one or more specific future times. [Added July 12, 2011] [Amended July 12, 2016]

"Production Capacity" means the maximum discharge rate that a well is allowed to pump in accordance with its operating permit and expressed in the units of gallons per minute and is calculated as the average discharge rate over any continuous 24-hour interval. [Added February 20, 2014]

RULE 1.1.2 OWNERSHIP INTEREST CONFLICT OR QUESTION

When the District receives documentation where two or more parties are unable to clearly demonstrate on the face of the documentation clarity of interests in the water rights and/or access thereto, the District shall notify such parties of such conflicting documentation, as follows:

1. The District shall provide copies of conflicting documentation to each party.
2. The parties shall be allowed six (6) months to engage in discussions on issues that are in conflict including but not limited to ownership and/or access to the water rights.
3. If resolution between the parties is achieved, then the District shall act upon resolution and include such resolution within their records.
4. Should no resolution be reached within six (6) months and no efforts through the judicial process be undertaken by either of the parties, the Board shall take no action.

RULE 4.2. EXCEPTIONS TO SPACING REQUIREMENTS.

1. If an applicant establishes, by clear and convincing evidence, good cause why a new well should be allowed to be drilled closer than the spacing required by Rule 4.1, the issue of spacing requirements will be considered during the permitting process and may be considered in any contested case process. If the Board chooses to grant a permit to drill a well that does not meet the spacing requirements, the Board may limit the production of the well to prevent or limit injury to adjoining landowners, well owners or the aquifer. Any existing well for which a timely application for certificate of registration or historic use permit has been filed in accordance with these rules is exempt from the spacing requirements under this Section 4. [Amended June 12, 2012] [Amended July 2, 2019]
2. The Board may, if good cause is shown by clear and convincing evidence, enter special orders or add special permit conditions increasing or decreasing spacing requirements.

3. If an exception to the spacing requirements is desired, a person shall submit an application to the Board at the district office. The application shall be on a form furnished by the District. The application must explain the circumstances justifying an exception to the spacing requirements and include a map with supporting location and GIS files. The plat or sketch must show the property lines of all land that abuts the land proposed for the well site within one-half mile of the proposed well, and all registered and permitted wells, within one-half mile of the proposed well site. The application must contain the names and addresses of all landowners and owners of registered and permitted wells within one-half mile of the proposed well site. The application and plat must be certified by some person actually acquainted with the facts who shall state that the facts contained in the application and plat are true and correct. [Amended June 12, 2012][Amended May 12, 2020]
4. Except as provided in this Rule 4.2, a public hearing will be held on each request for an exception to the spacing requirements. Prior to the public hearing written notice of the public hearing will be sent to the applicant. The notice shall also be sent by the applicant to: (a) the owners of all land that abuts the land proposed for the well site within one-half mile of the proposed well; and (b) the owners of all registered and permitted wells located within one-half mile from the proposed well site; applicant shall file an affidavit of mailing to all individuals noted in (a) and (b) above within 5 days of mailing. After all interested parties have an opportunity to appear and be heard at the public hearing, the Board may grant or deny an exception. Provided, however, if all such landowners and owners execute a waiver in writing, stating that they do not object to the granting of the exception, the Board may proceed, upon notice to the applicant only and without hearing, and determine the outcome of the application. The applicant may waive notice or hearing, or both. [Amended April 8, 2008]
5. If the applicant presents waivers signed by all landowners and well owners that are required to be given written notice under this Rule 4.2, stating that they have no objection to the proposed location of the well site, the spacing requirements of Rule 4.1 shall not apply to the proposed well location.
6. Permitted wells that are not produced for 180 consecutive calendar days, or more, in any twelve consecutive calendar months, that are less than 80 feet in depth, and that are producing from the Brazos River Alluvium or the Little River Alluvium are exempt from spacing requirements. [Amended May 12, 2020]
7. Wells previously permitted by the Railroad Commission, and exempt under Rule 7.10(2)(b), that are to be altered, or replaced with a well having the same casing diameter, for the purpose of supplying water for hydraulic fracturing or a similar purpose or use without a new or amended permit being issued by the Railroad Commission are exempt from the public hearing requirements, if the well and use comply with Rule 7.17(11). [Amended February 20, 2014]
8. Wells exempt pursuant to Rule 7.10(1)(a)(iii) and 7.10(2)(c) are not subject to the spacing requirements. [Amended August 12, 2014]

9. Existing wells that are limited production wells are not subject to the spacing requirements.
[Added October 14, 2008] [Amended June 12, 2012]

RULE 4.3. MONITORING REQUIREMENTS. [Added May 12, 2020]

1. Each well having a production capacity of 1000 gpm, or more, shall have monitoring equipment reasonably required by the District and be capable for use as a monitoring well.
[Amended July 12, 2005, (former Rule 5.1.1)]
2. Each well that is part of an operating permit with an aggregate withdrawal of 10,000 AFY or more, shall have monitoring equipment reasonably required by the District and be capable for use as a monitoring well. If a well from that aggregate has a production capacity of less than 500 gpm, then the District may consider removing the requirement of monitoring equipment for that well.
3. The monitoring equipment reasonably required by the District shall include the capability to automatically measure water levels ~~in the well,~~ **pumping rates, and** ~~and to automatically measure cumulative production discharge rates.~~
 - a. The equipment for measuring water levels will consist of a transducer, a sonic water level, or equivalent technology capable of measuring within an accuracy of 0.1 ft. The water level measuring equipment shall interface with software capable of recording measurements at hourly intervals.
 - b. The equipment for measuring discharge will consist of an inline totalizing water meter that satisfies Rules 11.2.2, 11.2.3, 11.2.4. The discharge measuring equipment will interface with software capable of recording measurements of cumulative flow at hourly intervals.
 - c. The District will have access to the monitoring equipment for the purpose of inspection. The District will give the permittee a notice for inspection not less than seven calendar days prior to the date of the inspection.
4. The monitoring data will be reported to the District electronically.
 - a. Once every month, the monitoring data will be reported using a spreadsheet format, that has been approved by the District. The monthly submission will provide by the 15th of such month the required monitoring data collected for the previous month.
 - b. The notification of the submission will be emailed to the District. The email notification will contain a hypertext link to the data files. The District may change the method of notification and/or data submission if requested to do so by the permittee.
 - c. Each monthly submission shall be accompanied with a statement that the data has been checked using quality assurance protocols developed for the District **submission and approved by the District.** Any changes to previously submitted monthly data sets will be accompanied by a letter explaining the reason for the resubmission.
 - d. Timely submission of the monitoring data is required as a condition for renewal of the operating permit.

RULE 7.7. PERMITS ISSUED BY THE DISTRICT.

1. All permits issued by the District shall state the following:
 - (a) the name of the person to whom the permit is issued;
 - (b) the date the permit is issued;
 - (c) the date the permit is to expire;
 - (d) the conditions and restrictions, if any, placed on the location of the well, ~~instantaneous rate~~ **production capacity** and annual amount of withdrawal of groundwater;
 - (e) any other conditions or restrictions the District prescribes;
 - (f) the beneficial use for which the water will be produced, e.g., industrial, municipal, irrigation, etc.; and [Added August 12, 2014]
 - (g) any other information the District determines reasonably useful and beneficial.

RULE 7.15. OPERATING PERMITS.

7. On or before February 15 of each year, each permittee must submit a report to the District, on a form provided by the District, stating the following: (1) the name of the permittee; (2) the operating permit number; (3) the well numbers of each well for which the permittee holds a permit; (4) the total amount of groundwater produced by each well or well system during each month of the immediately preceding calendar year; (5) the total amount of groundwater produced by each well and well system during the immediately preceding calendar year; (6) the purposes for which the water was used; and (7) any other information requested by the District. [Amended November 5, 2019]

RULE 11.2. METER/MEASUREMENT REQUIRED.

1. The owner of a non-exempt well shall equip the well with a metering or measuring device meeting the specifications of these rules, and shall operate the meter on the well to measure the instantaneous flow rate and cumulative total amount of groundwater withdrawn from the well. Except as provided in Rule 11.1, the owner of a well existing on the effective date of these rules shall install a meter on the well on or before December 30, 2007. An hour meter may be considered as a production monitoring device on a well, if the output (gpm) can be accurately determined.
2. A mechanically driven, ~~digital~~ **or a magnetic, (or any other meter acceptable with the American Water Works Association), totalizing water meter with digital output** is the only type of meters that may be installed on a well, **without written authorization from the District**. The digital totalizer must not be re-settable by the permittee and must be capable

of a maximum reading greater than the maximum expected pumpage during the permit term. Battery operated registers must have a minimum five-year life expectancy and must be permanently hermetically sealed. Battery operated registers must visibly display the expiration date of the battery. All meters must meet the requirements for registering accuracy as set forth in the **applicable** American Water Works Association standards for cold-water meters, ~~as those standards existed on the date of adoption of these rules.~~

RULE 11.3. METERING AGGREGATE WITHDRAWAL. Where wells are permitted in the aggregate, one or more water meters may be used for the aggregate well system if the water meter or meters are installed so as to measure the groundwater production from all wells covered by the aggregate permits. The provisions of Rule 9.2 apply to meters measuring aggregate pumpage. Notwithstanding the foregoing it will be the responsibility of the owner or operating permit applicant to show that the inclusion of any well in an aggregate well system will not result in a violation of the Sections 4 and 5 spacing requirements that are intended for the protection of neighboring properties. If the owner or applicant fails, for any well, to show adequate spacing and production safeguards that will reasonably comply with the intent of Sections 4 and 5 for the protection of neighboring properties, such well shall be metered. Wells and well systems subject to Rule 4.3 are not eligible to aggregate metering withdrawal under this Rule 11.3.

RULE 13.1. WASTE.

1. Groundwater shall not be produced within, or used within or without the District, **including but not limited to water withdrawn from any aquifer under the jurisdiction of the District**, in such a manner as to constitute waste **and/or not put to a beneficial use**.
2. No person shall pollute or harmfully alter the character of the underground water reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata, or from the surface of the ground.
3. No person shall commit waste of groundwater as defined in Chapter 36, Texas Water Code. [Amended June 12, 2012]
4. An abandoned well shall be capped and maintained in a manner to prevent pollution, including the commingling of undesirable water and fresh water or the loss of water. [Amended June 12, 2012]
5. **These provisions shall apply to the use of groundwater by all persons using the groundwater withdrawn from any aquifer under the jurisdiction of the District, whether in privity of permit or contract, from withdrawal to distribution or ultimate use of such groundwater. To the extent a person is also using surface water, the provisions of this section do not limit the use of that source of water.**
6. **Enforcement and violations of this Section shall be as set forth in Section 15 of these Rules**

and/or allowed under Chapter 36, Texas Water Code.

7. In addition, the District may, after proper notice and hearing pursuant to Section 14, consider reduction of the permitted amounts upon any infraction(s).

RULE 15.4. PENALTIES FOR NON-COMPLIANCE.

3. The following penalties are assessed for the first and the second violation of a District rule, state law over which the District has jurisdiction, or a permit or order issued by the District:

Schedule of Administrative Penalties

<u>Non-Compliant Action</u>	<u>Minimum Penalty</u>
Failure to obtain a drilling permit, or drilling a well without a drilling permit	\$1,000
Drilling a well without a license other than on property owned and for personal use by driller	\$1,500
Exceeding permitted production rate or volume	\$1,000
Altering production capacity of an existing well without a permit or permit amendment	\$ 500
Equipping an exempt well to enable production of more than 25,000 gallons per day prior to obtaining the required permits	\$1000
Using water from a well for a purpose other than the purpose indicated in the well registration or well permit	\$1000
Failure to report production as required by Rules or special permit requirements	\$ 500
Violation of District Rule or Permit (other than the above listed violations)	\$ 250

[Rule 15.4 Added December 9, 2009]

RULE 16.4. ACTIONS BASED ON MONITORING RESULTS. Monitoring and threshold levels will be used to initiate appropriate responses designed to help achieve the DFCs and

PDLs, conserve and preserve groundwater availability and protect groundwater users. Three threshold levels are adopted to help guide these actions. Each threshold level provides for an increased level of response based on the change in production or water levels associated with a Management Zone. The threshold levels are: Level 1; Level 2; and Level 3. [Amended June 12, 2012] [Amended November 5, 2019]

1. Threshold Level 1. Threshold Level 1 will be reached, and additional studies will be undertaken to evaluate the nature and extent of curtailment in groundwater production that may be required to achieve the District's management objectives inclusive of achieving DFCs and PDLs. The studies will, at a minimum, suggest possible schedules for reducing groundwater production in the affected management zone(s). The Threshold Level 1 actions will be conducted at such time as: [Amended June 12, 2012] [Amended May 3, 2017] [Amended July 2, 2019]
 - a. Total estimated annual production is greater than 60% of the Modeled Available Groundwater (MAG) value listed in Section 8 of the Management Plan;
 - b. An average groundwater drawdown, calculated from monitored water levels for an aquifer, is greater than 50% of the average groundwater drawdown provided in Section 7 of the Management Plan as a DFC or PDL; [Amended November 5, 2019]
 - c. The average groundwater drawdown, calculated from monitored water levels, for a Shallow Management Zone is greater than 50% of the threshold value, for average drawdown in that Shallow Management Zone, listed in Section 7 of the Management Plan; or
 - d. Projected average water level drawdowns, calculated with a District approved methodology, indicate that a DFC or PDL listed in Section 7 of the Management Plan will be exceeded within 15 years.
2. Threshold Level 2. Threshold Level 2 will be reached, and a review of the Management Plan, rules and regulations will be initiated, and pending the results of Threshold Level 1 studies, the District will notify well owners of possible plans for curtailing groundwater production. The Threshold Level 2 actions will be conducted at such time as: [Amended June 12, 2012] [Amended May 3, 2017] [Amended July 2, 2019]
 - a. Total estimated annual production is greater than 70% of the Modeled Available Groundwater (MAG) value listed in Section 8 of the Management Plan; [Amended July 2, 2019]
 - b. Average groundwater drawdown, calculated from monitored water levels, for an aquifer is greater than 60% of the average groundwater drawdown listed in Section 7 of the Management Plan as the DFC for that aquifer; or
 - c. The average groundwater drawdown, calculated from monitored water levels, for a

Shallow Management Zone, is greater than 60% of the threshold value for average drawdown listed in Section 7 of the Management Plan for that Shallow Management Zone;

3. Threshold Level 3. Threshold Level 3 will be reached, and the Board will consider and adopt amendments to the Management Plan, rules and regulations at such time as the average groundwater drawdown, calculated from monitored water levels, for an aquifer is greater than 75% of an average groundwater drawdown listed in Section 7 of the Management Plan as a DFC for that aquifer or PDL for the shallow portion of that aquifer. The District anticipates that one of the adopted amendments will include one or more strategies for the District's curtailment of groundwater production in the affected management zone(s) or adjacent zones causing the undesired effect. [Amended June 12, 2012] [Amended May 3, 2017] [Amended July 2, 2019] [Amended May 12, 2020]
4. The threshold levels will be administered and applied separately to each Management Zone. As part of the evaluations and determinations, the District will consider the pumping- induced impacts to groundwater resources that occur between or among management zones. The evaluation will determine if pumping or production in one management zone is contributing to adverse impacts to groundwater conditions in another management zone. [Amended June 12, 2012] [Amended May 3, 2017]
 - a. If Threshold Level 1 is exceeded, the District will perform studies to provide information on aquifer properties, aquifer recharge, aquifer and surface water interactions, and aquifer pumping. To the extent possible, the studies shall distinguish between the causes and effects of pumping occurring within the District and outside of the District. The results may be used to improve the models, tools, and methodologies used to analyze data and predict future groundwater levels and availability. The District will contract with a professional hydrogeologist to (i) conduct studies and/or (ii) establish the parameters for the studies and review the results of studies. The results of all studies shall be made available to the public in a reasonable manner. The District will hold one or more public meetings and provide a minimum of 90 calendar days for the public to provide written comments in addition to the meeting(s). [Amended July 2, 2019] [Amended May 12, 2020]
 - b. If Threshold Level 2 is exceeded, the District will re-evaluate the Management Plan and rules regarding management zones, recharge estimates, the collection and analysis of monitoring data, and proposed changes to DFCs for consideration in the joint planning process. As part of the re-evaluation, the District will hold one or more public meetings and provide a minimum of 90 calendar days for the public to provide written comments in addition to the meeting(s). [Amended May 12, 2020]
 - c. If Threshold Level 3 is exceeded, the District will conduct a public hearing to discuss the status of the aquifers and develop a Level 3 Response Action Work Plan focused on achieving the District's goals and objectives, including DFCs and PDLs. The work plan will be completed within 6 months after the first public

hearing and will be made available to the public through the District's web site. [Amended November 5, 2019]

i. The notice will include the cause for the notice, the fact that an additional review, evaluation and study is being made, and that a reduction of the maximum allowable production per acre and/or the permitted production may be approved following the review and evaluation. [Amended July 12, 2005]

ii. The general manager, in consultation with the district professional hydrogeologist, will review and evaluate the permit applications pending, the permits issued and the records of the District, estimated total production by exempt wells, and increase the frequency or locations of water drawdown monitoring within the Management Zone. If the notice is due to the average drawdown based on monitored water levels an evaluation of the reasons for the drawdown will be included in the review. [Amended July 12, 2005] [Amended June 12, 2012]

iii. The general manager will promptly report to the Board that notices have been given and the event that required the notice to be given. The general manager will advise the Board of the plan for review and evaluation recommended under

(ii) and, if the plan will be implemented over a period of more than one month, during the evaluation, review, study and any additional monitoring period, the general manager will keep the Board advised of the progress of the review and evaluation. Upon completion of the review, evaluation and any additional monitoring, the general manager and district professional hydrogeologist will make a final report to the Board, together with their recommendation for action. [Amended July 2, 2019]

iv. If the general manager, in consultation with the district professional hydrogeologist, finds the evaluation, study, review and/or monitoring supports a recommendation that an adjustment of permitted production is recommended for a Management Zone or another Management Zone in which threshold level 3 was reached, the recommendation shall be consistent with the finding and provide supporting documentation for the limitation. [Added July 12, 2005] [Amended June 12, 2012]

v. The general manager may, after consultation with the district professional hydrogeologist and in combination with or in addition to the above, recommend any action or combination of actions set forth in Rule 16.4. [Amended June 12, 2012]

5. Desired Future Condition Exceedance. A DFC exceedance will be reached when the condition expressed in the DFC is exceeded at or before the specific time assigned to that DFC by the GMA. If multiple DFCs were adopted by the GMA that describe the same aquifer conditions but for different times, then the DFC with the earliest day will be used by the District for evaluating a DFC exceedance or an exceedance of a threshold related to a DFC per Rule 16.4.4.

The determination of whether a DFC or a DFC-related Threshold 1, 2, or 3 exceedance has occurred will include an analysis by the district professional hydrogeologist of water levels measured in the District monitoring wells and approval by the District Board.

6. The terms, provisions and the actions provided for in this Rule 16.4 are in addition to and not in lieu of the terms, conditions and provisions of any other rule or provision of this Section 16. This rule does not limit the authority of the Board to act pursuant to any other rule. The Board shall have the discretion to take any action authorized by this Section 16. [Amended June 12, 2012]

RULE 16.6. ADJUSTING MAXIMUM PRODUCTION PERMITTED. The District shall adjust the maximum groundwater production permitted per acre and/or the permitted production under any permit issued by the District as follows: [Amended July 12, 2005] [Amended May 3, 2017]

1. If the water drawdown level within a Management Zone, or in any zone within the District in which the water drawdown level is impacted by production in such Management Zone, exceeds the water drawdown Threshold Level 3 in Rule 16.4, the maximum water production permitted per acre for the Management Zone and the water authorized to be produced under any permit issued by the District for that zone will be reduced. The required reduction will be determined by the District hydrogeologist and approved by the Board based on the evaluation and the evidence. The objective for the reduction is to prevent the exceedance of a DFC as defined in Rule 16.4.5. The production in a Management Zone may be reduced to the extent that production in that Management Zone is impacting water drawdown levels in any Management Zone in the District. [Amended July 12, 2005] [Amended June 12, 2012]