

**RULE 2.3 QUORUM**

(a) Except as provided by Subsection (b), a majority of the membership of the board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the board is sufficient for transacting any business of the district.

(b) For the purposes of making a final decision on a permit or permit amendment application by a board composed of 10 or more directors, a concurrence of a majority of the directors eligible to vote is sufficient for taking an action on the application.

**RULE 2.4 CONFLICT OF INTEREST (Renumber the rest of section 2 of rules)**

(1) A Director of the District is subject to the provisions of Chapters 171 and 176, Local Government Code, relating to the regulation of conflicts of officers of local governments.

(2) If a Director is required to file an affidavit under Section 171.004(a), Local Government Code, the Director may not:

(a) attend a closed meeting related to the matter for which the Director is required to file the affidavit; and also may not,

(b) vote on a matter for which the Director is required to file the affidavit unless a majority of the Directors are also required to file an affidavit related to a similar interest on the same official action.

**RULE 9.1. WATER USE AND OTHER DISTRICT FEES AND CHARGES.**

The District may establish a reasonable fee or surcharge for the transport of groundwater, using one of the following methods:

- a. A fee negotiated between the District and the transport permit holder; or
- b. A ~~combined production and~~ transport fee not to exceed \$0.~~2017~~ per thousand gallons of groundwater transported outside of the District.
- c. Effective January 1, 2024, the maximum allowable rate the district may impose for a transport fee under section b above, once the limit of \$0.20 per thousand gallons is reached, may be increaseds by up to three percent of the total transport fee each calendar year.

**RULE 14.2. NOTICE AND SCHEDULING OF HEARINGS ON APPLICATIONS.**

~~2-3.~~ The General Manager is responsible for drafting the notice of hearings on permits and applications, and transmitting a copy of such notice to applicant not less than ~~ten~~fifteen (1015) days prior to any deadline required of the applicant to provide notice under these rules ~~the date set for the hearing, and ensuring that applicant provides such notice in the following manner:~~ [Amended October 14, 2008] [Amended June 12, 2012] [Amended May 12, 2020] [Amended April 11, 2023]

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a. ~~The applicant shall provide such notice by first-class mail as follows: Applicant, at Applicant's expense, shall provide notice will be given to each person who requests copies of hearing notices pursuant to the procedures set forth hereinafter in this Rule 14.2.2, and by also giving notice to any other person the Board deems appropriate.~~

~~(1) For an Applicant that is applying for 1 non-exempt well, at the Applicant's expense, shall give the notification by first class mail To landowners and well owners within one half (1/2) mile of the proposed well location, and any holder of a certificate of convenience and necessity within which the well is located:-~~

- ~~a) Within one-half mile of the proposed well location for a single non-exempt well;~~
- ~~or,~~
- ~~b) Within one mile of the proposed well locations for a well field with multiple non-exempt wells.~~

~~(2) To any holder of a certificate of convenience and necessity within which the proposed non-exempt well or well field is to be located.~~

~~(3) To any other person required by these rules.~~

~~a. For an Applicant that is applying for 2 or more non-exempt wells, at the Applicant's expense, shall give the notification by first class mail to landowners and well owners within one (1) mile of the proposed well locations, and any holder of a certificate of convenience and necessity within which the well locations are located.~~

b. The District shall provide notice as required by the Rules as follows:

- ~~(1) To the county clerk of Milam County and Burleson County.~~
- ~~(2) At a place readily accessible to the public at the District office.~~
- ~~(3) On the District website.~~
- ~~(4) By regular mail, facsimile or electronic mail to any person who requests copies of hearing notices, any person the Board deems appropriate, or any other person entitled to receive notice under these rules.~~

~~b. The notice may be sent by regular mail, facsimile or electronic mail to any person who has timely requested notice. [Amended April 11, 2023]~~

c. ~~The date of delivery, mailing, posting of notice, or facsimile or electronic transmission, or posting of notice shall be in accordance with Rule 7.13.8 may not be less than ten (10) business days before the date set for the hearing. [Amended June 12, 2012] [Amended July 2, 2019] [Amended April 11, 2023]~~

~~d. District will provide notice to the county clerk of Milam County and Burleson County, and post a copy of the notice at the county courthouses of Burleson and Milam Counties in the place where notices are usually posted for the respective county. The date of posting may not be less than ten (10) business days before the date of the hearing. [Amended October 14, 2008] [Amended July 2, 2019] [Amended April 11, 2023]~~

~~e. The District will post a copy of the notice at a place readily accessible to the public at the District office. [Amended October 14, 2008] [Amended July 2, 2019] [April 11, 2023]~~

~~f. The notice will be sent by regular mail to any other person entitled to receive notice under these rules. [Amended April 11, 2023]~~

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#### RULE 14.3. GENERAL PROCEDURES FOR HEARINGS ON APPLICATIONS.

7. Continuance: The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and the time and place (other than the District office) to reconvene the hearing or other proceeding are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding will be posted at the District's Offices and delivered to all parties or persons who have requested notice of the hearing pursuant to Rule 14.2 and any other person the presiding officer deems appropriate. Posting at the county courthouses or publication of a newspaper notice of the new setting is not required; provided that if the Board continues a hearing, to comply with the Open Meetings Act additional notice will be given. A continuance may not exceed the time limit for the issuance of a final decision under section 14.7[Amended June 12, 2012] [Amended April 11, 2023]

#### **RULE 14.7. FINAL DECISION AND APPEAL FOR PERMITS AND APPLICATIONS.**

[Added July 12, 2016]

1. Board Action: After the record is closed and the matter is submitted to the Board at a final hearing, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or part, or take any other appropriate action. Additional evidence may not be presented during such final hearing, although the parties may present oral arguments to summarize the evidence, present legal argument, or argue an exception to the proposal for decision. The Board action takes effect at the conclusion of the meeting at which the Board by majority vote takes final action, and is not affected by a motion for rehearing, unless such motion is granted. [Amended October 14, 2008]
2. The Board may change a finding of fact or conclusion of law made by the ALJ or may vacate or modify an order issued by the ALJ only if the Board determines:
  - a. that the ALJ did not properly apply or interpret applicable law, district rules, written policies provided or prior administrative decisions;
  - b. that a prior administrative decision on which the ALJ relied is incorrect or should be changed; or
  - c. that a technical error in a finding of fact should be changed.

3. A final decision issued by the Board under this section must be in writing and must either adopt the proposed findings of fact and conclusions of law as proposed by the administrative law judge or include revised findings of fact and conclusions of law consistent with Section 2 above.

4. Notwithstanding any other law, the Board shall issue a final decision under this section not later than the 180th day after the date of receipt of the final proposal for decision from the State Office of Administrative Hearings. The deadline may be extended if all parties agree to the extension.

5. Notwithstanding any other law, if a motion for rehearing is filed and granted by the Board under Section 36.412, the Board shall make a final decision on the application not later than the 90th day after the date of the decision by the Board that was subject to the motion for rehearing.

6. The Board is considered to have adopted a final proposal for decision ("PFD") of the administrative law judge as a final order on the 181st day after the date the administrative law judge issued the final PFD proposal for decision if the board has not issued a final decision by:

(a) adopting the findings of fact and conclusions of law as proposed by the administrative law judge; or

(b) issuing revised findings of fact and conclusions of law as provided by Section 2 above.

7. A PFD proposal for decision adopted under Section (6) above, is final, immediately appealable, and not subject to a request for rehearing

8. Requests for Rehearing: Any decision of the Board on a matter may be administratively appealed by the applicant or other party filing a written request for written findings of fact and conclusions of law. Such request must state clear and concise grounds for request. A written request for rehearing or for written findings of fact and conclusions of law must be filed in writing at the District office within twenty (20) calendar days from issuance of the Board's decision unless the Board issued findings of fact and conclusions of law as part of the final decision. Such a written request for written findings of fact and conclusions of law is mandatory with respect to any decision or action of the Board before any judicial appeal may be filed. The Board's decision is final if no request for written findings of fact and conclusions of law is made within the specified time. The Board shall provide certified copies of the findings of facts and conclusions of law to the person who requested them and to each designated party, not later than the thirty-fifth (35th) day after the date the Board receives the request. A party to a contested hearing may request a rehearing not later than the twentieth (20th) day after the date the Board issues the findings of fact and conclusions of law. Such request must be filed in the District's office and must state the grounds for the request. If the original hearing was a contested hearing, the party requesting a rehearing must provide copies of the request to all parties to the hearing. The Board shall consolidate requests for rehearing filed by multiple parties to the contested case hearing, but only one rehearing may be considered per matter [Amended April 11, 2023]

## **RULE 14.8. RULEMAKING HEARING PROCEDURES AND PUBLIC HEARINGS.**

### 9. Petition to Change Rules:

(a) A person with a real property interest in groundwater in the District may file a petition with the District to request the amendment to a rule, or adoption of a new rule.

(b) Petitions must be submitted in writing to the District office and must comply with the following requirements:

(1) Each rule requested to be amended or adopted must be submitted by separate petition;

(2) Each petition must be signed and notarized, and state the name and address of each person signing the petition;

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(3) Each petition must include:

(A) a brief description of the petitioner's real property interest in groundwater in the District;

(B) a brief explanation of the proposed amendment or new rule;

(C) the text of the proposed amendment or new 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 amend the rule or adopt the new proposed rule.

(c) The General Manager may reject any petition for failure to comply with the requirements of Subsection (b) of this Section and shall provide notice to the petitioner of the reason for the rejection.

(d) Within ninety (90) days after submission of a petition that complies with this section, the Board shall either deny the petition, stating its reasons for denial in the minutes of the Board Meeting or in a letter providing a written explanation to the petitioner, or initiate rulemaking proceedings as provided by Section 36.101, Water Code.

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