

Rule 3 Well Registration, Drilling Permits, and Operating Permits

Rule 3.0 Registration and Permitting

- 3.0.A.** All wells located within the District except environmental sampling wells, environmental monitoring wells, environmental soil borings, geotechnical wells, and geologic exploration wells, shall be registered with the District. Based on the registration information, certain well owners shall be required to obtain operating permits.
- 3.0.B.** All registrations and permits issued by the District shall be subject to the District's Rules and to terms and conditions regarding the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practical the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells.
- 3.0.C.** The District reserves the authority, to the extent allowed by law, to adopt, revise, and supersede its Rules applicable to wells subject to registration and permitting. Registration of a well, issuance of a drilling permit, operating permit, or permit to substantially alter a well does not limit the District's authority to regulate a well or the production of water from a well.
- 3.0.D.** The District may conduct well and well site inspections during the registration, application, drilling, or completion process to confirm well location, status, production capability, measure water levels, take water samples, or conduct other appropriate well-related investigations and inspection activities deemed necessary by the District. All well and well site access shall be conducted in accordance with Rule 5.10.
- 3.0.E.** The District makes no representations and shall have no responsibility with respect to the availability or quality of water.

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Rule 3.1 Existing Wells

Any well in the District that was drilled and properly completed on or before May 17, 2005, is an existing well under these Rules. All existing wells are required to either register with the District under Rule 3.1.A. or obtain an operating permit from the District under Rule 3.1.B. A failure to take these steps may result in issuance of a notice of violation and assessment of a penalty under Rule 7.2. If an existing

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well is substantially altered, as defined by District Rules, after May 17, 2005, it becomes subject to the requirements of the District Rules applicable to new wells.

3.1.A. Registration

The owner or agent of an existing well located within the District shall register the well with the District. Forms for registering existing wells are available from the District Office. The owner shall provide all information required on the form and a copy of the completed State of Texas Well Report. This information shall include, but is not limited to:

- (1) The name of the well owner, mailing address, and telephone number;
- (2) A location map or property plat drawn on a scale that adequately details the well site, provides the latitude and longitude (WGS 84) of the well head, the property lines, the location of other existing wells on the subject tract, the location of the existing use(s), the location of any existing or proposed on-site wastewater system, and the location of any other potential source of contamination within 100 feet of the existing well;
- (3) Casing size, well depth, pump size, and production capability;
- (4) What the well is used for; and
- (5) If it is a water well, the information shall include what water from the well is used for and where water from the well is used.

No application fee under Rule 4.1. shall be charged for registering an existing well. The District shall issue a well number.

The District shall determine under Rule 3.5. whether the existing well must obtain an operating permit, and whether it is currently operational, abandoned, or plugged, and what annual well fees under Rule 4.3. are required, if any. No further approval is required of existing wells, except as may be required by Rule 3.4. regarding changes in ownership or well conditions or operations. Changes in well conditions or operations or purpose of use of water from the well, may make the well subject to production limits under Rule 10. Increases in the production capability may require an operating permit.

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3.1.B Operating Permit

If based on the registration submitted under Rule 3.1.A., the District determines that an existing well requires an operating permit, the well owner shall obtain an operating permit as described in this Rule 3.1.B. The owner or agent shall submit to the District an operating permit application on a form obtained from the District. All operating permit applications shall be signed and sworn to as required by Texas Water Code Section 36.113(b). In addition to the information required under Rule 3.1.A., the owner shall provide other information such as a water conservation plan and a drought contingency plan, and any other information deemed necessary by the District. No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. No application fee under Rule 4.1. shall be charged for issuing an operating permit for an existing well.

If the application seeks less than 131,400 gallons per year, once the application is deemed administratively complete, the General Manager will either deny the application or determine the production amount under Rule 10 and issue the permit. Per Rule 8.3, the application will be referred to the Board for a public hearing if the General Manager denies the application or if requested by the applicant.

If the application seeks 131,400 gallons per year or more, once the application is deemed administratively complete, the District will determine the production amount under Rule 10. The application will be processed per Rule 8.3.

An operating permit shall require installation of a meter, specify and authorize the annual maximum groundwater production from the well as provided by Rule 10, the owner of the well, the well number, the purpose of use permitted, and any special permit conditions, including the production fee, if required under Rule 4.4. All meters must be registered with the District under Rule 5.11.

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Rule 3.2 New Wells – Registration/Drilling Permit

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- 3.2.A.** Under the District's Enabling Legislation as codified at Texas District and Local Laws Code section 8838.104, written authorization must be obtained from the District before a new well is drilled or an existing well is substantially altered.
- 3.2.B.** A new well is a well drilled or properly completed after May 17, 2005. A well that is substantially altered after this date must also comply with the requirements of this Rule 3.2.
- 3.2.C.** The owner of a new well proposed to be located within the District shall register the well with the District and pay the application fee, as required by Rule 4.1.A.(1), prior to commencement of drilling. This registration shall serve as an application for a drilling permit. Forms for registering new wells are available from the District Office. The owner of an existing well that will be substantially altered shall seek authorization from the District, as required by Rule 3.4, prior to altering the well.
- 3.2.D.** The owner shall provide all information required on the form. This information shall include, but is not limited to:
- (1) The name of the well owner, mailing address, and telephone number;
 - (2) The proposed well location, including a location map or property plat drawn on a scale that adequately details the well site, the property lines, the location of other existing wells, any existing or proposed wastewater systems, and other known potential sources of contamination within 300 feet of the proposed well showing compliance with Rule 6 spacing requirements. This map or plat shall provide adequate detail to allow the District to determine compliance with Rule 10.4, if applicable.
 - (3) Certification that the well is not located within 50 feet of or within the service area of a retail public water utility or community water system;
 - (4) If the well is to be located within 50 feet of or within the service area of a retail public water utility or community water system, a document from the retail public water utility or community water system stating that it is unable or unwilling to provide service or that it has no objection to the location of the proposed well;
 - (5) Casing size, well depth, pump size, and production capability;

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- (6) What the well will be used for; and
- (7) If it is a water well, the information shall include what water from the well will be used for and where water from the well will be used. It shall also include a demonstration of beneficial use without waste.

3.2.E. The District shall issue a well number.

3.2.F. If the District determines that the information is complete, that the application fee has been paid, that location of the proposed well complies with Rule 6 spacing requirements, and Rule 10.4, if applicable, that no operating permit under Rule 3.3. is required, and that the registrant is in compliance with all District Rules and all required fees have been paid, the District shall issue a drilling permit. If an operating permit under Rule 3.3. is required, the owner may drill the well, but shall not produce water from the well until an operating permit is issued. The only exception is during a pump test authorized by the District.

3.2.G. If no operating permit under Rule 3.3 is required, upon issuance of the drilling permit, the owner may drill the well. A copy of the drilling permit shall be on-site while the well is being drilled. The issuance of a permit to drill is not a guaranty of the availability of groundwater. The well shall comply with all State and District well construction and spacing requirements. The owner shall ensure that the driller files a copy of the State of Texas Well Report with the District within 60 days of well completion. Although no further approval is required, except as may be required by Rule 3.4. regarding changes in ownership or well conditions or operations, all new wells are subject to the production limits imposed by Rule 10. Increases in the production capability or purpose of use may result in the well being reclassified so that the well owner would be required to apply for an operating permit and be subject to annual production fees under Rule 4.4.

3.2.H. Drilling shall begin within one year of approval of a registration and issuance of a drilling permit. At that time, if no drilling has begun, the drilling permit expires. The application fee is non-refundable. After expiration of a drilling permit, an owner shall submit a new registration/application for drilling permit accompanied by the appropriate application fee prior to drilling the well. The District may grant a one-time extension of no more than 180 days upon written request to the District.

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Rule 3.3 *New Wells – Operating Permit*

If based on the registration submitted under Rule 3.2., the District determines that a new well requires an operating permit, prior to producing water from the well, the owner is required to obtain an operating permit as follows.

3.3.A. Application

An application for an operating permit shall be submitted on a form obtained from the District and shall be signed and sworn to by the well owner as required by Texas Water Code Section 36.113(b). A separate application is required for each well. Each application shall include the following:

- (1) Name, address, phone number, and facsimile number of the well owner or owners;
- (2) Name, address, phone number, and facsimile number of the person submitting the permit application;
- (3) Name of the proposed project, if any;
- (4) Any previous or other name(s) that identifies the tract of land;
- (5) Location and legal property description of the proposed project;
- (6) A copy of the well registration and drilling permit;
- (7) The annual maximum production requested (in gallons per year or acre feet per year) and a demonstration of compliance with Rules 10.3 and 10.4, if applicable;
- (8) A water conservation plan;
- (9) A drought contingency plan;

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- (10) A demonstration that the purpose of use and production amount are consistent with the District Management Plan;
- (11) A demonstration of other sources of water available for the requested production amount and use;
- (12) A pump test as described in Rule 5.13, unless waived by the District;
- (13) Any other information deemed necessary by the District to comply with the requirements of Texas Water Code Chapter 36 and address specific District needs; and
- (14) Application fee required by Rule 4.1.A(2).

3.3.B. Administrative Completeness of Application

In order to adequately address the purposes and requirements of Texas Water Code Chapter 36 and District Rules, the District may require further clarification or additional documentation from the applicant. The applicant shall be notified when the application has been reviewed and deemed administratively complete. No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. If an application remains administratively incomplete for more than 180 days following either the original application date or the date that the District notified the applicant of the need to submit additional clarification or documentation, the application shall expire.

3.3.C. Consideration of Operating Permit Applications

The District shall promptly act on each administratively complete application for an operating permit. An application seeking less than 131,400 gallons per year may be acted on by the General Manager. Within 60 days after the date an operating permit application or application to substantially alter a well is determined to be administratively complete, the application shall either be acted on by the General Manager or referred to the Board in accordance with the provisions of Rule 8.3.

The District shall be guided by these Rules and Chapter 36, Texas Water Code in consideration of each application. The District shall consider the

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following, which include the considerations required by Texas Water Code Section 36.113(d):

- (1) Does the application conform to the requirements of Chapter 36 and these Rules?
- (2) Is the well located within 50 feet or within the service area of a retail public water utility or community water system? If so, has the applicant shown that the utility or community water system is unable or unwilling to provide water service or that it has no objection to the location of the well?
- (3) Has the applicant demonstrated compliance with Rules 10.3 and 10.4, if applicable?
- (4) Has the applicant considered other sources of water available for the requested use and production amount?
- (5) Does the proposed use of water unreasonably affect existing groundwater and surface water resources or existing permit holders?
- (6) Has the applicant demonstrated that the proposed well will be for beneficial use without waste?
- (7) Are the proposed use of water and production amount consistent with the District's approved District Management Plan?
- (8) Has the applicant agreed to avoid waste and achieve water conservation?
- (9) Will the conditions and limitations in the permit prevent waste, achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells?
- (10) Does the application include an acceptable drought contingency plan?
- (11) Does the application include an acceptable water conservation plan?
- (12) Has the applicant agreed to use reasonable diligence to protect groundwater quality?

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- (13) Has the applicant agreed to follow the District's rules on well plugging at the time of well closure?"
 - (14) Are the applicant and the well in compliance with all District rules and have all required fees been paid?
 - (15) Is the proposed use of water from the well wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape?
 - (16) This section does not apply to the renewal of an operating permit issued under §36.1145.
- D.** An operating permit shall require installation of a meter, and specify and authorize the annual maximum groundwater production from the well as provided by Rule 10. All meters must be registered with the District under Rule 5.11.
- E.** The issuance or amendment of an operating permit is not a guaranty of the availability of groundwater.

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Rule 3.4 Change in Well Conditions or Operations, and Permit Renewal, Amendment, and Revocation

3.4.A Change in Well Conditions or Operations

- (1) No person shall take any of the following actions related to a well located in the District without notifying and receiving authorization from the District:
 - (a) change the type of use of a well;
 - (b) change the place of use of the water produced from the well;
 - (c) alter the size or depth of a well, the well pump, or its pumping volume;

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- (d) plug a well; or
 - (e) change the status of a well from active to non-active.
- (2) Changes may be processed administratively, may require an amendment to an existing operating permit, may make an exempt well be required to obtain an operating permit, and may make a well subject to the production limits of Rule 10.
 - (3) Changes that affect compliance with spacing requirements of Rule 6 will be denied unless a Variance is obtained under Rule 7.
 - (4) No pump installer or water well driller shall make changes to a well if the owner or agent has not applied for and obtained the appropriate authorization under this Rule.

3.4.B. Change in Use That Requires a Well to Have an Operating Permit

- (1) If the production of groundwater from a well or the capability to produce groundwater from a well increases to more than 25,000 gpd (17.36 gpm), an operating permit shall be required.
- (2) It is the responsibility of the owner of such a well to apply for an operating permit no later than 90 days prior to making the changes that render such well subject to this Rule.
- (3) A change in use from domestic or livestock to any other purpose or use, regardless of production capability, shall likewise require the owner to obtain an operating permit.
- (4) No pump installer or water well driller shall make changes to a well if the owner or agent has not applied for and obtained the appropriate authorization under this Rule.

3.4.C. Change in Ownership

- (1) Any change in ownership of a well shall be reported to the District by the purchaser on an approved form within 60 days after the change.
- (2) Both the seller and the purchaser shall sign the change in ownership form.

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- (3) If there are unpaid annual well fees or production fees at the time of transfer, the new owner shall become responsible for payment of such fees.
- (4) For wells with an operating permit, failure to timely notify the District may result in the permit being revoked under Rule 3.4.G.
- (5) Change in ownership is considered a minor amendment.

3.4.D. Operating Permit Term

- (1) Operating permits issued by the District are valid for a period of five (5) years from the effective date, unless otherwise specified by the District as a special permit condition.
- (2) Such a special permit condition may include the need for additional data regarding the impact of the well on the aquifer or surrounding wells.
- (3) The District reserves the authority to adopt, revise, and supersede rules applicable to wells subject to an operating permit.

3.4.E. Renewal of Operating Permits

- (1) An application for renewal of an operating permit shall be submitted no later than 90 days prior to the expiration date of the operating permit and shall be accompanied by the appropriate application fee under Rule 4.1. If an application to renew a permit is not received during this time, the permit may lapse and the well owner may be subject to penalty if the well is operated without a valid permit. Once the permit has lapsed, the landowner or well owner may have to apply for a new operating permit.
- (2) Decision on Renewal Application—
 - (a) Except as provided by Subsection (ii), the District, by its General Manager, shall without a hearing renew or approve an application to renew an operating permit before the date on which the permit expires, provided that:
 - i the application is submitted in a timely manner and accompanied by any required fees in accordance with District rules; and

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- ii the permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules.
- (b) The District is not required to renew a permit under this section if the applicant:
 - i is delinquent in paying a fee required by the District;
 - ii is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or
 - iii has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule.
- (c) If the District is not required to renew a permit under Subsection (b)(ii), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.
- (d) (i) If the holder of an operating permit, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under District rules, the permit as it existed before the permit amendment process remains in effect until the later of:
 - ii. the conclusion of the permit amendment or renewal process, as applicable; or
 - iii. final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.
- (e) If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed under Section 36.1145 without penalty, unless Subsection (b) of that section applies to the applicant.
- (f) The District may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the District's rules. If the District initiates an amendment to an operating permit, the permit as it existed

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before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

3.4.F. Well Changes Requiring an Operating Permit Amendment

- (1) An amendment to an operating permit is required for any change to the operation, use, or condition of a non-exempt well, including changing the production limit, the type of use of the well, the place of use of the water produced from the well, the size or depth of a well, a well pump, or its pumping volume.
- (2) Amendments are characterized as major or minor according to the requirements of this Rule 3.4.F. Such characterization will determine the process involved for consideration and approval of an amendment.
- (3) Major Amendment
 - (a) A major amendment to an operating permit is required to increase the annual production limit, to change the type of use or to change the location of withdrawal.
 - (b) An application for a major amendment shall be submitted at least 90 days prior to the date the change is to take place, on a form obtained from the District and accompanied by the appropriate application fee under Rule 4.
 - (c) The District shall notify the applicant when the application has been reviewed and deemed administratively complete. No major amendment application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District.
 - (d) Within 60 days after the date a major amendment application is determined to be administratively complete, the application shall be referred to the Board in accordance with the provisions of Rule 8.3.
 - (e) The application for a major amendment shall be considered as provided in Rule 3.3.C.

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(f) No pump installer or water well driller shall make changes to a well if the owner has not applied for and obtained the appropriate authorization under this Rule.

(4) Minor Amendment

(a) A minor amendment to an operating permit a change in the ownership of the well; the size or depth of a well, well pump, or the well's pumping volume that does not increase the authorized annual production amount or the annual production capability of the well; or a change in the approved conservation and drought contingency plan.

(b) An application for a minor amendment, on a form obtained from the District, must be submitted at least 30 days prior to the date the change is to take place. A minor amendment application fee must also be submitted, if one has been established under Rule 4.

(c) The General Manager may process and approve a minor amendment.

(d) No pump installer or water well driller shall make changes to a well if the well owner has not applied for and obtained the appropriate authorization under this Rule.

3.4.G. Operating Permit Involuntary Amendment or Revocation

(1) Operating permits are subject to involuntary amendment or revocation if a change in State law or District Rules requires such action; for violation of District Rules; violation of the permit, including special permit conditions; violation of the provisions of Texas Water Code Chapter 36; waste of groundwater; nonpayment of annual well fees or production fees; or other actions that the District determines to be detrimental to the groundwater resources within the District, including noncompliance with the District's conservation plan or drought contingency plan.

(2) If an involuntary amendment or revocation is the result of an enforcement action under District Rule 7 and the respondent permit holder requests a hearing, it shall be referred to the Board for action under District Rule 8.7.

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- (3) If an involuntary amendment or revocation is not the result of an enforcement action under District Rule 7 and the permit holder requests a hearing, it shall be referred to the Board for action under District Rule 8.4.

3.4.H. Replacing a Well

- (1) In order to qualify as a replacement well, the well that is being replaced must be properly registered or have an operating permit and be in compliance with District Rules.
- (2) The replacement well must be no nearer to adjoining property lines than the well it is replacing, unless the replacement well is an exempt well and the owner of the replacement Well complies with Rule 6.
- (3) The replacement well shall not have the capability of producing more water than the original capacity of the well it is replacing, unless the replacement well is an exempt well and the owner of the replacement well complies with Rule 6.
- (4) Prior to drilling a replacement well, the well owner must submit a replacement well form to the District. If the General Manager determines that the well is a replacement well as described in this Rule 3.4.H, the District will make changes in the approved registration and operating permit, if any, authorizing drilling and operation of the replacement well.
- (5) In case of emergency with the potential to affect human or livestock health or safety, a replacement well may be drilled and the required replacement well form must be submitted within 2 business days.
- (6) A well that has been replaced under this Rule 3.4.H must be plugged within 30 days.
- (7) The drilling and completion standards in effect at the time of drilling the replacement well shall apply to the replacement well.

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Rule 3.5 ***Wells Subject to Operating Permits***

- 3.5.A.** All water wells located within the District, having the capacity to produce more than 25,000 gallons per day (17.36 gallons per minute) shall be required to obtain an operating permit under Rules 3.1.B. or 3.3. and pay a production fee under Rule 4.4.
- 3.5.B.** All water wells located within the District incapable of producing more than 25,000 gallons per day (17.36 gallons per minute), except such wells used for domestic or livestock purposes as defined in Rule 2, shall be required to obtain an operating permit under Rules 3.1.B. or 3.3. Such wells are not required to pay a production fee under Rule 4.4.
- 3.5.C.** A well may be issued a temporary or one-time authorization for the limited purpose, production volume, and duration specified in the authorization. Such authorization is limited solely to the terms specified in the authorization and does not create a right to produce water from the well in the future. Such authorization shall be obtained under Rules 3.1.B. or 3.3 and shall pay a production fee under Rule 4.4.

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