



FREQUENTLY ASKED QUESTIONS ON PROPOSED AMENDMENTS TO LSGCD'S RULES

- 1. How is the District protecting historic and existing use?** All existing permits issued to date remain in effect and will be renewed under the process described in the proposed rules if adopted. All existing wells are grandfathered in, and are, therefore, not required to comply with new spacing rules. The updated rules also include well spacing requirements that will help protect existing wells from potential impacts from new wells.
- 2. How is the District protecting property rights?** The District recognizes that each landowner owns the groundwater beneath his/her property, and that all landowners must have an opportunity to produce groundwater. The protection of property rights related to existing and historic production and new production are both important components of property rights in the District. In addition, the District proposes the issuance of perpetual permits. The District does not favor one type of beneficial use over another. The rules propose a variance process to request an exception from a spacing rule to ensure all owners have an opportunity to produce groundwater from their property under the terms and condition set out in the permit after a variance hearing. The District will allow new users to obtain permits even if reductions are required to ensure that all owners have an opportunity to produce groundwater and that new users are not inadvertently held solely responsible for achieving the desired future conditions by being denied an opportunity to produce groundwater. The hydrogeological information provided as part of the Hydrogeological Report Requirement, combined with other data collected by the District, will help the District use the best available data and science in its long-term management of the resource to achieve the desired future conditions while also providing all owners an opportunity to produce groundwater.
- 3. What do your new rules mean for the GRP?** The proposed revisions will repeal all phases of the District's regulatory plan (DRP) and formally abolish the large volume groundwater user (LVGU) designation, and the reduction, conversion, and groundwater reduction plan (GRP) requirement for LVGUs. The District will no longer have large or small volume user designations or require any permit holder to join a GRP. For the permit holders formerly known as LVGUs, this means all permitting, invoicing, and payment will be directly with the District and not by or through a GRP Sponsor. After formal repeal of the DRP, the GRP and all its tenets will no longer be a part of the District's regulations or rules. The proposed changes do NOT invalidate or repeal the actual GRP contracts, which are third party contracts to which the District is not a party. The changes repeal the requirement to join a GRP or enter into a GRP contract.
- 4. Will the new rules apply to everyone or all permits?** Yes, the new rules will apply to all wells and permits moving forward with the following exceptions: (i) the new gallons per minute (gpm) spacing requirements only apply to new, non-exempt wells; and (ii) the new application requirements only apply to new or amended permit



applications. However, any changes to the metering, reporting, fee payment and enforcement rules will apply to all owners, as applicable, on a going-forward basis. Exempt wells are not subject to water use fees, the metering, and the well completion and production report requirements.

5. **Is my well still going to be exempt?** The District is not proposing to change any of the exemptions; however, under the current and new rules, a well can lose its exempt designation under certain situations. For example, if you use groundwater from your exempt well for some purpose other than solely for domestic, livestock and/or poultry use, you forfeit the well's exempt status.
6. **Do I have to register my well?** The District has not changed the rules regarding which wells are required to be registered. If your well was/is required to be registered and you haven't registered it, you can do so for 60 days with no penalty. Even if you are not required to register your well under one of the few exceptions to registration, the District still encourages you to register to be considered in the spacing and impact analysis. If your well is not registered, the District does not have a record of its location. If the District does not know where your well is located, it cannot ensure new, non-exempt wells are properly spaced from your exempt well nor can it evaluate potential impacts on your exempt well from the proposed pumping of the new, non-exempt well.

Most exempt wells are required to be registered. The only exempt wells that are not required to register are:

- water wells authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Texas Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water or when drilled;
 - leachate wells, monitoring wells, and dewatering wells regardless of when drilled; and
 - pre-existing exempt wells (wells drilled before August 26, 2002) with an inside casing diameter measuring 4 inches or less in diameter.
7. **Can you explain the property line and well-to-well spacing?** All wells, exempt and non-exempt, are required to be drilled more than 50 feet from the property line ensuring that all wells are at least 100 feet from one another. The 50-foot property line spacing rule is not new and is actually a requirement from the Texas Department of Licensing and Regulation (TDLR). The new gpm spacing rule only applies to new, non-exempt wells and requires them to be spaced a certain distance from all registered exempt and permitted wells completed in the same aquifers. The spacing distance is based on the proposed pumping capacity of the new, non-exempt well. New exempt wells are not required to comply with the gpm spacing requirements. The gpm spacing requirement seeks to protect all registered exempt and permitted wells



and will help maintain artesian pressure (water level) in existing wells and lessen interference between wells.

- 8. What if I cannot comply with the spacing rules?** The proposed changes provide a process for an owner to request a variance from or to request an exception to the spacing rules. The variance application process requires a Hydrogeological Report. An exception is automatically granted if the applicant can demonstrate that the abutting land or registered and permitted well to which a spacing exception is requested is owned or controlled by the same person as the proposed well. An applicant may also provide signed and notarized waivers from all registered and permitted well owners or all adjacent property owners within the applicable spacing distance. If the applicant cannot obtain waivers, the Board will consider the exception at a public hearing.
- 9. What is required in the Hydrogeological Report?** Generally, a report sealed by a licensed professional engineer or geoscientist in Texas that assesses aquifer conditions and potential impacts of the proposed pumping. The report is required for a request: (i) to modify or increase an existing well or well system that would result in the existing well(s) being equipped to produce 700 gallons per minute or greater; (ii) to drill and operate a proposed new well or well system with a proposed aggregate production capacity of 700 gallons per minute or greater; and/or (iii) for an exception to the spacing requirements in Rule 3.2 or Rule 3.3. The District will provide a document with all the specific guidelines.
- 10. What does the temporary drought buffer do?** If adopted by Board resolution, the drought buffer temporarily increases annual production limits during certain drought conditions. This prevents permit holders from having to contact the District to request a permit amendment and gives the Board some flexibility to address conditions as needed when needed. The resolution must state how long the temporary drought buffer shall remain in place and can be based on improvement of the drought status according to Texas Water Development Board (TWDB) reports.
- 11. How is the District encouraging conservation?** Foremost, the requirement for groundwater owners and users to acquire permits is a conservation measure. Additionally, the District's emphasis on obtaining the best available data (e.g., through obtaining water level data from monitoring wells) allows the District to understand aquifer conditions and meet its goals and state law related to the conservation of the resource. One of the District's primary roles is conducting joint water planning with other GCDs. Conservation, conjunctive use, and reliability of water during drought are all key factors in the joint-planning process.

The District conducts a very thorough analysis in the application process including requiring the applicant to provide documentation demonstrating how the amount of water requested addresses an existing or projected water supply need or demand, that the water will be put to a beneficial use and there will be no waste. While the District does not favor one beneficial use over another, the District understands that



certain uses should be monitored to ensure waste is not occurring. For example, surface impoundments have special metering and reporting requirements and a requirement to keep miscellaneous losses to a minimum. The District also offers a rebate program for users who pump less than their annual limit up to 10%. If the District adopts by resolution a temporary drought buffer, users are not obligated to produce the additional authorized volume and are only required to pay fees on the additional amounts actually produced in excess of the Annual Production Limitations.

The District further promotes water conservation through several programs that provide educational leadership within Montgomery County. The LSGCD Weather Station Network monitors daily weather conditions and distributes accurate weekly landscape watering recommendations through a dedicated e-blast, website update, and social media posting. The District sponsored Texas WaterWise program is implemented yearly by over 1,400 teachers, students, and their families within the District's jurisdiction to educate youth about the importance of water within our community. The District's education department is available for presentations at schools and events throughout the county and also brings with it the mobile lab trailer, which offers a great visual on not only ways to conserve water but also has a working model of the Gulf Coast Aquifer System for Montgomery County. Additionally, Lone Star GCD actively participates on the Texas 4-H Water Ambassadors Advisory Committee and sponsors a yearly scholarship in collaboration with the summer 4-H2O Leadership Academy. The District is a proud sponsor of the annual Gulf Coast Water Conservation Symposium and has numerous water conservation resources and literature available to the public.

- 12. What does the appeal process mean?** The process in Rule 1.12 is new and requires a person to appeal any decision made by the General Manager, for which an appeal is provided, to the Board of Directors (Board) before the person can file a lawsuit against the District. This gives the person an opportunity to communicate directly with the Board and a chance for the Board to review the decision in an effort to timely resolve the dispute and avoid unnecessary litigation. Rule 1.12 also authorizes a person to request a reconsideration of a Board's decision before filing suit where not otherwise required under the rules. This gives the person an additional opportunity to have the decision reviewed before considering litigation.
- 13. Do the rules cap groundwater production?** Yes, all permits have an Annual Production Limitation that is determined based on the information in the application. The proposed rules prohibit permit holders from exceeding their allocated production except as adopted by Board resolution on a temporary basis during drought periods (i.e., temporary drought buffer).
- 14. Is the District instituting reductions or cutbacks? If so, when? If not, why not?** The final judgment invalidated the reduction and conversion requirements for large volume users. The reduction and conversion requirements were premised on a prior goal of sustainability as defined based on a calculated recharge rate that yielded a pumping cap of 64,000 acre-feet per year. In 2017, the District changed its



management goal from sustainability to measured aquifer declines. The 2016 desired future conditions, which were based on the old sustainability goal and the 64,000 acre-feet per year pumping cap, were found to be no longer reasonable. In 2019, the District incorporated into its goals and objectives the legal requirement to provide every owner an opportunity to produce groundwater from his/her property. The District must have a documented scientific basis to institute a cutback. For example, the District is required to manage the aquifers to achieve the desired future conditions. If the District's collected data demonstrates that the District is not on track to achieve those conditions within the projected timeframe, the District would be required to consider cutbacks to ensure the District's management will result in achievement of the desired future conditions.

The District is currently waiting for new desired future conditions from the GMA 14 voting districts in the joint planning process. Once new desired future conditions are adopted, the District will begin assessing whether it is on track to achieve the projected goal(s) and it has 50 to 70 years to achieve the desired future condition goal(s). In the meantime, the District is continuing to collect monitoring well data and perform studies that will help inform the desired future conditions and the management process. While well spacing limitations are generally not designed to address overall district pumping, well spacing does help address local impacts. The District is proposing regulation to help address potential impacts on all registered exempt and permitted wells even in the absence of a district-wide total production curtailment. The District is the first GCD within GMA 14 to propose a well spacing rule other than TDLR's 50-foot from the property line requirement.

15. Isn't the District supposed to manage to the modeled available groundwater (MAG) number and if so, why isn't the District instituting a cap on permitting?

No, the District is not required to manage to the MAG number. In 2011, the Texas Legislature changed the term "managed available groundwater," which acted as a cap on total production, to "modeled available groundwater, which is not a cap and is one of several factors a district considers in managing production on a long-term basis. The District is required to manage the aquifers to achieve the desired future conditions and uses actual monitoring well data to track whether it is achieving those conditions on a long-term basis. The modeled available groundwater is determined by TWDB, and for GMA 14, has historically been derived from a pumping distribution well file provided by the GMA districts in the joint planning process. However, pumping may or may not occur in the manner predicted in the pumping file. Any number of pumping distributions may ultimately achieve the desired future condition (the model merely predicts one way the desired condition could be achieved).

16. What happens if the desired future conditions are exceeded?

The District is required by law to manage to the desired future conditions. Therefore, if it becomes evident that desired future conditions will not be achieved, the District will implement appropriate management measure to protect the aquifers while protecting property owners' rights, as well. The District will be monitoring whether it is on track to achieve the desired future conditions such that an adjustment can be made before they are



exceeded to ensure they will be achieved at the end of the 50- to 70-year time period while also providing every owner an opportunity to produce groundwater from his/her property. Once the GMA 14 voting districts adopt new desired future conditions during this round of joint planning, the District will begin refining the system by which it will track achievement of the desired future conditions and will provide updates to the public.

- 17. Why is the District not proposing production rules based on acreage or tract size when that is in the District’s management plan?** The management plan is a five-year plan and there is no time limitation for the District to adopt such rules. The District’s plan does require the Board to review at least annually whether the rules and plan are working and whether amendments are needed. The GMA 14 voting Districts have not yet adopted desired future conditions applicable to the District after the successful petition of the desired future conditions during the second round of joint planning. The GMA 14 voting districts must have proposed desired future conditions by May 1, 2021 and final desired future conditions by January 5, 2022. The Board decided it was best to reassess the various allocation methods after the joint planning process is complete, which is the process required under Chapter 36 of the Texas water Code.
- 18. Why is the District proposing perpetual permits?** A perpetual term acknowledges that the owner’s right to produce groundwater is a private property right subject to the District’s regulation. The Texas Water Code requires all permits to be renewed without a hearing unless changes are sought or the permit holder is in violation of the District’s rules. The term of the permit does not change the District’s right to institute curtailment or adjustments if there is a documented scientific basis to do so. Districts typically use permit terms and the renewal process as a way to check in with permit holders on status and potential changes. This “check-in” can be done at any time as an administrative review irrespective of the permit term. All permits, under whatever term, are subject to adjustments regardless of the term. Moving away from a one-year term will relieve some administrative burden. A perpetual term will assist permit holders with longer term water planning. Transport and brackish production zone permits require a 30-year term. It is hard to justify why an exporter or brackish producer would be entitled to a longer permit than an in-district permit holder.