



*Clearwater Underground Water
Conservation District*

DRAFT PROPOSED AMENDMENTS TO

District Rules

**Proposed amendments to existing District Rules 3.0, 12.3, and 13.2
(reflected in red-line/strike-out)**

SECTION 3 DISTRICT MANAGEMENT PLAN

The Board shall adopt a Management Plan that specifies the acts, procedures, performance and avoidance necessary to prevent Waste, the reduction of artesian pressure, or the draw-down of the water table in accordance with Section 36.1071, Texas Water Code. The District shall use the Rules of the District to implement the Management Plan. The Board will review the plan at least every fifth year. Upon adoption of Desired Future Condition(s) under Section 36.108 of the Texas Water Code, the District shall update its Management Plan within two years of the date of the adoption of the Desired Future Condition(s). The District shall thereafter update its Rules to implement the Management Plan within one year of the date the Management Plan is updated to include the adopted Desired Future Condition(s) and the amount of Modeled Available Groundwater corresponding to the most recently approved Desired Future Conditions. If the Board considers a new plan necessary or desirable, based on evidence presented at hearing, a new plan will be adopted. A plan, once adopted, remains in effect until amended, or until the adoption of a new plan.

RULE 12.3 RULE ENFORCEMENT

12.3.3 Remedies

- (a) The Board shall consider the appropriate remedies to pursue against an alleged violator during the show cause hearing, including assessment of a civil penalty, injunctive relief, or assessment of a civil penalty and injunctive relief. In assessing civil penalties, the Board may determine that each day that a violation continues shall be considered a separate violation. The civil penalty for a violation of any District Rule is hereby set at the lower of \$25,000.00 per violation or a lesser amount determined after consideration, during the enforcement hearing, of the criteria in subsection (b) of this Rule. Notwithstanding the foregoing, the Board may recover a civil penalty in excess of the maximum penalty allowed by this Rule if the Board determines, and a court concurs, that the person gained an economic benefit greater than the maximum penalty as a result of the violation.
- (b) In determining the amount of a civil penalty, the Board of Directors shall consider the following factors:
- (1) the nature, circumstances, extent, duration, and gravity of the violation with special emphasis on the effect of the violation: one;
 - a. Groundwater resources;
 - b. Another person's right to produce groundwater;
 - c. Public health and safety; or
 - d. Other water resources or the environment;
 - (2) With respect to the alleged violator:
 - a. The history and extent of previous violations (i.e. compliance history);
 - b. The degree of culpability, including whether the violation was attributable to mechanical or electrical failures and whether the violation could have been reasonably anticipated and avoided;

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Deleted: (1) compliance history

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- c. The demonstrated good faith, including actions taken by the alleged violator to rectify the cause of the violation and to compensate the affected person;
 - d. Whether there was an economic benefit gained as a result of the violation and, if so, the amount of the economic benefit;
 - e. The amount necessary to deter future violations; and
 - f. If the alleged violator is a person required to adopt a drought contingency plan under Texas Water Code § 11.1272 and overproduction of groundwater is the basis of the alleged violation, whether the person acted in good faith and exercised reasonable diligence in implementing and enforcing the terms and the plan;
- (3) any enforcement costs related to the violation, including but not limited to the District's legal fees and other consultant fees, if any;
and
(4) any other matters deemed necessary by the Board.

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RULE 13.2 GROUNDWATER EXPORT FEE

13.2.1 The District may impose a reasonable fee or surcharge, established by Board resolution, for export of groundwater out of the District using one of the following methods:

- a) a fee negotiated between the District and the exporter; or
- b) a rate not to exceed 20.6 cents or \$0.206 for each thousand gallons of water exported out of the District.

13.2.3 The District may only use funds obtained from the rate increase under Rule 13.2.2 for costs related to assessing and addressing impacts associated with groundwater development as provided by Texas Water Code Section 36.207, including:

- a) Maintaining operability of wells significantly affected by groundwater development;
- b) Developing or distributing alternative water supplies; and
- c) Conducting aquifer monitoring, data collection, and aquifer science; and
- d) If the District enters into an interlocal contract with another groundwater conservation district under Chapter 791, Government Code, maintaining operability of wells located in that district that are significantly affected by groundwater development, so long as the interlocal agreement with the other district authorizes funds to be used for that purpose.

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13.2.5 A permit holder who transports groundwater for use outside of the District shall either:

- a) Install and maintain a meter that accurately measures the volume of groundwater transported out of the District. The meter shall be read each month, and the volume of groundwater exported must be reported to the District using a form or electronic reporting system approved by the District. The meter must comply with all applicable

requirements of Rule 5.5, including requirements related to installation, reporting, accuracy, and testing. The permit holder must maintain accurate records of the volume exported and the purpose of the export, and such records must be made available for inspection by the District or its representatives.

Or

- b) Elected not to install a meter and instead pay the export fee prescribed in Rule 13.2.1 on the total amount of groundwater authorized under the applicable permit, regardless of the total actual volume of groundwater exported out of the District.

13.2.6 A permit holder who transports groundwater outside of the District and does not install a meter to measure the volume of groundwater exported out of the District shall be invoiced an export fee based on the full annual volume of groundwater their permit authorizes for export outside of the District.

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