

Chapter 342: SIGNIFICANT GROUNDWATER WELLS

SUMMARY: This chapter describes the fee structure for funding contracts with third party environmental professionals who provide supplemental technical review and assessment of monitoring information related to significant groundwater wells. This chapter also addresses public informational meetings, and pre-application and pre-submission meetings. This chapter is a routine technical rule.

- 1. Introduction.** This chapter describes the fee structure for funding contracts with third party environmental professionals who provide supplemental technical review and assessment of monitoring information related to significant groundwater wells. The fee structure is required by *An Act Concerning the Sustainable Use of and Planning for Water Resources*, PL 2007, ch. 399(15)(effective September 20, 2007). This chapter also addresses public informational meetings, and pre-application and pre-submission meetings.
- 2. Applicability.** This chapter applies to a significant groundwater well that is regulated directly or as part of a development by the department pursuant to the *Natural Resources Protection Act (NRPA)*, §§480-A–480-Z, or the *Site Location of Development (Site Law)*, 38 M.R.S.A. §§481–490.
- 3. Definitions.** For purposes of this chapter only, the following terms have the following meanings.

A. Permittee. “Permittee” refers to the person owning or operating a significant groundwater well regulated under one of the laws listed in Section 2.

B. Significant groundwater well

- (1) “Significant groundwater well” means any well, wellfield, excavation or other structure, device or method used to obtain groundwater that is:
 - (a) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook; or
 - (b) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook.

Withdrawals of water for firefighting are not applied toward these thresholds.

- (2) “Significant groundwater well” does not include:
 - (a) A well authorized by the department under the NRPA or Site Law for which the department has not required monitoring related to pumping or water levels, other than during the initial pump test and any background and recovery monitoring.
 - (b) A public water system as defined in Title 22, section 2601, subsection 8 other than a public water system used solely to bottle water for sale;

- (c) Individual home domestic supply; or
- (d) Agricultural use or storage.

In subparagraph (b), a ~~facility~~ public water system “used solely to bottle water for sale” includes a ~~facility~~ public water system that primarily bottles water for sale and provides a de minimus amount of water for other purposes, such as employee use or other minor provision of water, as determined by the department. For a well that provides water to both a public water system and to a bottling plant or other use, the department may consider only that portion of the water not provided to the public water system in determining whether or not the well is a significant groundwater well as defined above.

4. Fee

- A. When payment is due.** The permittee shall pay the full annual fee due for the period October through September in conformance with the due date printed on an invoice. The base fee is prorated if the significant groundwater well is authorized during this period.
- B. Base fee plus sliding-scale fee.** The annual fee includes a base fee plus a sliding-scale fee for each department permit for a significant groundwater well or wells. The base fee is a flat amount applicable to all significant groundwater wells. The sliding-scale fee relates to the total gallons of water pumped by a significant groundwater well during the previous period (October through September).

- (1) The base fee is \$250. The sliding-scale fee is \$50/million gallons pumped or fraction thereof.

Example: A development permitted pursuant to the Site Law includes 5 significant groundwater wells that pumped a total of 2.7 million gallons from October through September. The fee: \$250 base fee plus \$150 sliding-scale fee = \$400.

- (2) The total annual gallons pumped is determined by the department based upon evidence available to the department concerning pumping during the applicable period, such as the following:
 - (a) Volumes reported to the Water Withdrawal Reporting Program;
 - (b) Monitoring information submitted to the department;
 - (c) Pumping limits established by the department; and
 - (d) Any other information available to the department.
- (3) When acceptable documented and quantifiable evidence is submitted to the department of actual pumping, and the actual pumping is different than the pumping limit established by the department, the volume based upon actual pumping is used to determine the fee.
- (4) When a well is permanently put out of production and the permit has been modified accordingly as provided in Section 5(C), the annual fee is pro-rated for the remaining period the well was open.

5. Transition, waiver, and permit modification

- A. Transition.** The department will assess the first annual fee on or before February 1, 2010 for the period October 1, 2008 – September 30, 2009. If the determination of the total annual gallons is based upon the permit limit, and the permittee submits an application for permit modification prior to February 1, 2009 seeking to modify the permit limit, an invoice for October 1, 2008 to September 30, 2009 will not be sent to the permittee until a decision has been made on the permit modification.
- B. Waiver.** The department may waive all or part of the annual fee if it determines that all or part of the groundwater withdrawal is returned to the same bedrock or surficial aquifer from which it was withdrawn. Examples include but are not limited to:
- (1) Water withdrawn for geothermal purposes and not discharged; and
 - (2) Water withdrawn for washplant operations at a gravel pit and allowed to return to the ground.
- C. Well permanently removed from production.** If a significant groundwater well permitted pursuant to the Site Law or the NRPA is capped or otherwise permanently removed from production, the permittee may apply to the department for a modification of the permit to reflect any decrease in the permit or variance limit.

- 6. Public informational meeting.** A public informational meeting must be held prior to submission of an application for a significant groundwater well pursuant to the NRPA. The applicant shall meet the public information meeting requirements in Section 13 of *Rules Concerning the Processing of Applications*, 06-096 CMR 2, without regard to whether a pre-application meeting is required in 06-096 CMR 2.
- 7. Pre-application and pre-submission meeting.** A pre-application meeting is required prior to submission to or acceptance by the department of a new application for a significant groundwater well pursuant to the NRPA. The applicant must meet the requirements in Section 10 of *Rules Concerning the Processing of Applications*, 06-096 CMR 2. A pre-submission meeting is required unless waived as provided in 06-096 CMR 2(10)(D).

NOTE: See *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2 for requirements applicable to a Site Law development concerning public information meetings, and pre-application and pre-submission meetings.

AUTHORITY: 38 M.R.S.A. § 341-D(1-B) and PL 2007, ch. 399(14) and (15).

EFFECTIVE DATE: