

Title 43

NATURAL RESOURCES

Part VI. Water Resources Management

Subpart 1. Ground Water Management

Chapter 1. General Provisions

§101. Applicability

A. The rules and regulations of this Subpart shall be applicable to the commissioner's jurisdiction regarding:

1. areas of ground water concern;
2. ground water emergencies; and
3. management of the state's ground water resources.

B. The rules shall not alter or change the right of the commissioner to call a hearing for the purpose of taking action with respect to any matter within the commissioner's jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004), LR 35:249 (February 2009).

§103. Definitions

A. The words defined herein shall have the following meanings when used in these Rules and Regulations for this Subpart. All other words used and not defined shall have their usual meanings unless specifically defined in Title 38 of the Louisiana Revised Statutes.

Aquifer—a ground water bearing stratum of permeable rock, sand, or gravel.

Area of Ground Water Concern—an area in which, under current usage and normal environmental conditions, sustainability of an aquifer is not being maintained due to either movement of a salt water front, water level decline, or subsidence, resulting in unacceptable environmental, economic, social, or health impacts, or causing a serious adverse impact to an aquifer, considering the areal and temporal extent of all such impacts.

Beneficial Use—the technologically feasible use of ground water for domestic, municipal, industrial, agricultural, recreational, or therapeutic purposes or any other advantageous purpose.

Commission—Ground Water Resources Commission authorized by R.S. 38:3097.4.

Commissioner—Commissioner of Conservation.

Critical Area of Ground Water Concern—an area of ground water concern, in which the commissioner finds that

the sustainability of the aquifer cannot be maintained without withdrawal restrictions.

Domestic Well—a well used exclusively to supply the household needs of the owner lessee or his family. Uses may include drinking, cooking, washing, sanitary purposes, lawn and garden watering and caring for pets. *Domestic wells* shall also include wells used on private farms and ranches for the feeding and caring of pets and watering of lawns, excluding livestock, crops, and ponds.

Drilling Rig Supply Well—a water well used only for the duration of the oil and gas drilling operation at the drilling location where sited for the immediate needs of drilling rig operations.

Ground Water—water suitable for any beneficial purpose percolating below the earth's surface which contains less than 10,000 mg/l total dissolved solids, including water suitable for domestic use or supply for a domestic water system.

Ground Water Emergency—an unanticipated occurrence as a result of a natural force or a man-made act which causes a ground water source to become immediately unavailable for beneficial use for the foreseeable future or drought conditions determined by the commissioner to warrant the temporary use of drought relief wells to assure the sustained production of agricultural products in the state.

Large Volume Well—a well with an 8 inch or greater diameter screen size or a well that by itself or used in conjunction with another well or group of wells on the same lease or within the same unit and screened in the same aquifer for the purposes of providing ground water for hydraulic fracturing for natural gas production and that alone or in conjunction with the other well or wells is determined by the Office of Conservation to be capable of producing 1,500 gallons per minute.

Owner—the person registered as owner of a water well with the Office of Conservation, and if there is none registered for a specific well or proposed well then the owner shall be one of the following: the legal owner of the property on which the well or hole is located, a person holding a long-term lease on the property on which the well or hole is located, or a person who otherwise has the legal right to drill and operate a water well on the property of another where the well or hole is located.

Person—any natural person, corporation, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind, or any governmental entity.

Replacement Well—a well located within 1,000 feet of the original well and within the same property boundary as the original well, installed within the same aquifer over an equivalent interval with an equivalent pumping rate, and used for the same purpose as the original well.

Spacing—the distance a water well may be located in relation to an existing or proposed water well, regardless of property boundaries.

Sustainability—the development and use of ground water in a manner that can be maintained for the present and future time without causing unacceptable environmental, economic, social, or health consequences.

User—any person who is making any beneficial use of ground water from a well or wells owned or operated by such person.

Well or Water Well—any well drilled or constructed for the principal purpose of producing ground water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004), LR 35:249 (February 2009), LR 36:326 (February 2010).

§105. Enforceability of Subpart 1—Ground Water Management

A. All provisions of this Subpart are enforced pursuant to Louisiana's Ground Water Management Law, R.S. 38:3097.1, et seq. Violation of any statute, regulation, rule, or order issued or promulgated pursuant to these laws may result in the issuance of an order requiring compliance and the imposition of a civil penalty consistent with R.S. 38:3097.3(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 35:250 (February 2009).

Chapter 3. Area of Ground Water Concern Application Procedure

§301. Who May Apply—Applicant

A. Any owner of a well that is significantly and adversely affected as a result of the movement of salt water front, water level decline, or subsidence in or from the aquifer drawn on by such well shall have the right to file an application to request the commissioner to declare that an area underlain by such aquifer(s) is a an area of ground water concern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004), LR 35:250 (February 2009).

§303. Notice of Intent to File an Application

A. The applicant shall have published a notice of intent to file an application for an area of ground water concern designation in the official parish journal of each parish affected by the proposed application. Such notice shall include:

1. name, address, and telephone number of the applicant;
2. a brief description of the subject matter of the proposed application;
3. a brief description of location including parish(es), section(s), township(s), range(s), and a map, which shall be sufficiently clear to readily identify the location of the proposed area;
4. a statement that, if the area is designated an area of ground water concern, incentives to reduce groundwater use may be implemented, and if the commissioner designates a critical area of groundwater concern, ground water use may be restricted;
5. a statement indicating where the application can be viewed; and
6. a statement that all comments should be sent to:

Commissioner of Conservation
Post Office Box 94275
Baton Rouge, LA 70804-9275
ATTN: Director, Environmental Division

B. A Notice of Intent to file an application for the removal or modification of an area of ground water concern designation shall be published in the official parish journal of each parish affected by the proposed application. Such notice shall include:

1. name, address, and telephone number of the applicant;
2. a brief description of the subject matter of the proposed application;
3. a brief description of location including parish(es), section(s), township(s), range(s), and a map, which shall be sufficiently clear to readily identify the location of the proposed area;
4. a statement that, if the area of ground water concern designation is removed or modified, current restrictions or incentives, if any, shall be rescinded or modified;
5. a statement indicating where the application can be viewed; and
6. a statement that all comments should be sent to:

Commissioner of Conservation
Post Office Box 94275
Baton Rouge, LA 70804-9275
ATTN: Director, Environmental Division

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584

(July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1213 (June 2004), LR 35:250 (February 2009).

§305. Application Content

A. An application for an area of ground water concern designation or for the removal or a modification of an area of ground water concern designation shall be filed with the commissioner of conservation at the above address no sooner than 30 days and no later than 60 days after publication of the notice of intent. Five copies of the application shall be filed, and must include:

1. the name, address, telephone number, and signature of the applicant;
2. a statement identifying the applicant's interest which is or may be affected by the subject matter of the application;
3. identification of the source of ground water (aquifer) to which the application applies;
4. identification of the proposed area of ground water concern or area proposed to be modified or removed from an area of ground water concern designation, including but not limited to:
 - a. its location [section(s), township(s), range(s) and parish(es)];
 - b. a map clearly identifying the boundaries of the subject area of the application, such as but not limited to:
 - i. U.S. Geological Survey topographic map(s) of appropriate scale (1:24,000, 1:62,500, 1:100,000); or
 - ii. LA-DOTD Louisiana parish map(s) outlining the perimeter of the area; or
 - iii. a digital map submitted in vector and/or raster formats, including the supporting metadata;
5. statement of facts and evidence supporting one of the following claims:
 - a. that taking no action would likely negatively impact ground water resources in the aquifer, if the application is pursuant to §307.A;
 - b. that alleviation of stress to the aquifer has occurred; if the application is pursuant to §307.B;
6. the applicant may also submit a proposal to preserve and manage the ground water resources in the area of ground water concern; and
7. the proof of publication of notice of intent to apply to the commissioner.

B. Direct Action by the Commissioner for Critical Ground Water Area Hearing

1. The commissioner may initiate a hearing to consider action with respect to a specific ground water area.
2. The commissioner shall notify the public pursuant to §303 and §501.A prior to issuing an order.

3. The information presented by the commissioner at the hearing shall include but not be limited to information pursuant to §305.A and §307.

C. Application for Groundwater Emergency Hearing

1. Notwithstanding the provisions of Subsections A and B hereof, the commissioner may initiate action in response to an application of an interested party or upon the commissioner's own motion in response to a ground water emergency other than those emergencies related to drought conditions requiring the temporary use of drought relief wells.

2. Subsequent to adoption of a proposed emergency order that shall include designation of an area of ground water concern and/or adoption of an emergency management plan for an affected aquifer, the commissioner shall promptly schedule a public hearing pursuant to §501.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1213 (June 2004), LR 35:250 (February 2009).

§307. Criteria for an Area of Ground Water Concern Designation

A. Application for designation of an area of ground water concern shall contain a statement of facts and supporting evidence substantiating that under current usage and normal environmental conditions, sustainability of an aquifer is not being maintained resulting in unacceptable environmental, economic, social, or health impacts, or causing a serious adverse impact to an aquifer, considering the areal and temporal extent of all such impacts caused by at least one of the following criteria:

1. water level decline; and/or
2. movement of a saltwater front; and/or
3. subsidence in or from the aquifer caused by overall withdrawals.

B. If the applicant is applying for modification or removal of an area of ground water concern designation, the application must contain a statement of facts and supporting evidence substantiating the alleviation of the original cause of designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1213 (June 2004), LR 35:251 (February 2009), LR 36:326 (February 2010).

§309. Review of an Area of Ground Water Concern Application

A. Within 30 days of receipt of an application pursuant to §305.A, the commissioner shall notify the applicant whether the application is administratively complete.

B. If the commissioner determines an application is incomplete, the applicant shall be notified in writing of the information needed to make such application administratively complete.

C. The applicant shall have 180 days to respond to a request by the commissioner for more information.

D. The commissioner may reject and return any application determined to be:

1. without merit or frivolous; or

2. incomplete after the applicant's response to the commissioner's request for more information, unless the remaining information required by the commissioner is minor in its nature.

E. Using available data, an analysis shall be made by the commissioner to determine if the area under consideration meets the criteria to be either:

1. designated an area of ground water concern or a critical area of ground water concern; or

2. modified or removed from an area of ground water concern or a critical area of ground water concern designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1214 (June 2004), LR 35:251 (February 2009).

§311. Recordkeeping

A. The commissioner shall compile and maintain at the Office of Conservation a record of all public documents relating to any application, hearing, or decision filed with or by the commissioner.

B. The commissioner shall make records available for public inspection free of charge and provide copies at a reasonable cost during all normal business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Conservation, Office of Conservation, LR 30:1214 (June 2004).