Chapter 342: Significant Groundwater Wells

- Final Format

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 of the Department of Environmental Protection (department) 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 describes a public information meeting requirement. Rules concerning the fee structure and public information meetings are required by *An Act Concerning the Sustainable Use of and Planning for Water Resources*, PL 2007, ch. 399(14) and (15)(effective September 20, 2007) as amended by *An Act to Clarify the Laws Regarding Significant Groundwater Wells,* PL 2009, ch. 295 (3) and (4) (effective September 12, 2009). This chapter also addresses pre-application and pre-submission meetings.

2. **Applicability.** This chapter applies to a significant groundwater well that requires a permit from the department pursuant to the *Natural Resources Protection Act (NRPA)*, 38 M.R.S.A §§ 480-A–480-GG, or requires approval as part of a development requiring a permit from the department pursuant to 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. **Department.** "Department" refers to the Maine Department of Environmental Protection.

   B. **Permit.** "Permit" refers to a permit issued pursuant to the NRPA for a significant groundwater well or a permit issued pursuant to the Site Law for a development containing a significant groundwater well.

   C. **Permittee.** "Permittee" refers to a person with a permit issued pursuant to the NRPA for a significant groundwater well or a person with a permit issued pursuant to the Site Law for a development containing a significant groundwater well.

   D. **Significant groundwater well.** "Significant groundwater well" has the same meaning as in 38 M.R.S.A. § 480-B(9-A) except that a development or part of a development requiring a permit pursuant to the Site Law or a structure or development requiring a permit from the Maine Land Use Regulation Commission is not excluded from the definition of "significant groundwater well."

4. **Fee**

   A. **When payment is due.** The permittee shall pay the full annual fee due for the period January to December by the following April 1. The base fee is prorated if the significant groundwater well is permitted by the department 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. The base fee is a flat amount applicable to all significant groundwater wells authorized under a single permit. The sliding-scale fee relates to the total gallons of water pumped by a significant groundwater well or wells authorized under a single permit during the previous period (January through December).

(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 January through December. The annual fee: $250 base fee plus $150 sliding-scale fee = $400.

(2) The permittee shall submit to the department a certified statement on a form provided by the department indicating total gallons pumped from January 1 through December 31 by a significant groundwater well or wells for each department permit, together with the annual fee, by the following April 1. The department may require a permittee to submit pumping records or other relevant documentation to verify total and per-well amounts.

(3) In the absence of the receipt of timely, acceptable documentation, the department may determine the total annual gallons pumped and require an annual fee 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.

(4) When a well is permanently put out of production and the permit has been modified accordingly as provided in Section 5(B), the annual fee is pro-rated for the period the well was open.

5. Exclusion from the fee requirement. The following are excluded from calculation of the fee requirement in Section 4.

A. Well with minor required monitoring. 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. Water returned to the same bedrock or surficial aquifer. The volume of groundwater that is withdrawn and returned to the same bedrock or surficial aquifer from which it was withdrawn as determined by the department, such as water withdrawn for geothermal purposes and not discharged.

6. Permit modification when a well is 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 limit.

7. **Public informational meeting.** A public informational meeting must be held prior to submission of a new 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.

   In addition to the notice required in 06-096 CMR 13, if the project is located on a mapped significant sand and gravel aquifer, the applicant shall send prior notice of the public information meeting, using the procedure described in 06-096 CMR 13, to the municipal office of any municipality that is located:

   A. Over part of the same mapped signficant sand and gravel aquifer, as mapped by the Maine Geological Survey, on which the project is located; and

   B. Adjacent to a boundary of the municipality where the project is located.

   If one or more adjacent civil division(s) over the same mapped significant groundwater aquifer is in unorganized territory, this notice must be sent to the Maine Land Use Regulation Commission.

8. **Pre-application and pre-submission meeting.** A pre-application meeting is required prior to submission to 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), PL 2007, ch. 399(14) and (15), and PL 2009, ch. 295(3) and (4).

EFFECTIVE DATE: