



Department of
**Environment &
Conservation**

Public Hearing
Water Quality, Oil and Gas Board
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, Nashville
and via Microsoft Teams
April 16, 2024– 10:00am

*If you wish to make Public Comment, please fill out a yellow comment card, or if virtual please email Drake.Smarch@tn.gov or message the chat box. Include what you want to comment on, and you will to be placed in line.

Welcome!

- Opening remarks from the Division of Water Resources Director, Jennifer Dodd.
- Introduction of new members by Technical Secretary
- Roll call of Board members present.
- Chairman's welcome of new members.

Board Minutes

- Presentation of minutes from October 2023
- **Vote** for approval of minutes.
- Minutes are available on the Board's website: <https://www.tn.gov/environment/about-tdec/boards-and-commissions/board-tennessee-board-of-water-quality--oil-and-gas.html>



Department of
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Rule Chapter 0400-40-12
Silvicultural Activity Stop Work Orders
0400-40-12-.04
Penalties

April 16, 2024

Stephanie Durman, Deputy General Counsel, Office of General Counsel



Department of
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Conservation**

**Rule Chapter 0400-45-06
Underground Injection Control
0400-45-06-.05
Injected Fluid Standards**

April 16, 2024

Britton Dotson, Technical Fellow, Division of Water Resources

Repeal of 0400-45-06-.05 Injected Fluid Standards

- Repeal of this rule does not minimize the Rule's authority to govern quality of injection well injectate.
- Repeal of this rule does not remove standards that have been utilized to govern injectate quality.
- This rule section does not have a federal counterpart.

UIC Rules Referencing Injectate Quality

- 0400-45-06-.04 PREVENTION OF POLLUTION OF GROUND WATER AND IDENTIFICATION OF UNDERGROUND SOURCES OF DRINKING WATER AND EXEMPTED AQUIFERS.
- 1) No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, **if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons.** The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.
- (3) For class V wells, if at any time the Commissioner learns that a Class V well **may cause a violation of primary drinking water regulations** he or she shall:
 - (a) Require the injector to obtain an individual permit; and/or
 - (b) Order the injector to take such actions (including, where required, closure of the injection well) as may be necessary to prevent the violation; and/or
 - (c) Take enforcement action.

UIC Rules Referencing Injectate Quality (cont.)

- 0400-45-06-.14 CLASS V WELLS.
- (1) The following are prohibited:
 - (b) The use of any Class V injection well in such a manner as to cause any USDW to contain any substances, that are toxic, carcinogenic, mutagenic, or teratogenic, other than those of natural origin, **at levels and conditions which violate primary drinking water standards as given in Chapter 0400-45-01 or adversely affect the health of persons.**
- (2) Construction and operation of a Class V well is authorized by virtue of this rule provided:
 - (a) the use of any Class V injection well **does not present a hazard to any existing or future use of a USDW,**
- (4) No authorization by permit or rule shall be allowed where a Class V well **causes or allows a violation of the provisions of paragraph (1) of this rule or pollution of any ground or surface water.**
- (12) Prohibition of fluid movement. (a) Injection activity prohibitions 1. No injection activity can allow the movement of fluid containing any contaminant into USDWs, **if the presence of that contaminant may cause a violation of any primary drinking water standard, or other health based standards, or may otherwise adversely affect the health of persons.** This prohibition applies to well construction, operation, maintenance, conversion, plugging, closure or any other injection activity.

UIC Rules Referencing Injectate Quality (cont.)

- (13) Authorization by Rule Requirements

All Class V UIC well authorizations by rule shall comply with this rule and all conditions established by the Commissioner as necessary to fulfill the purposes of the Tennessee Water Quality Control Act, T.C.A. §§ 69-3-101 et seq., contain a description of the injection zone being authorized, and contain any necessary corrective action as stated under paragraph (5) of Rule 0400-45-06-.09. **The authorization conditions shall be set at levels to prevent adverse effects to persons utilizing the ground water resource after consideration of at least the following factors: any guidelines set for certain pollutants by U.S.E.P.A.; the flow characteristics of ground water risk to humans; and the risk of migration.**

Governance

- “Authorization By Rule” would not be the appropriate governance structure for activities intending to introduce pollutants, nor for activities causing introduction of pollutants.
- Any proposed injection activity with the potential to impact underground sources of drinking water or any existing injection activity tied to an observed impact to underground sources of drinking water would be subject to “Permit” consideration.
 - Public Notice
 - Injectate Characterization
 - Treatment if Necessary
 - Sampling
 - Permit Conditions and Term Limits



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Rule Chapter 0400-54-09
Pressure Maintenance Projects and Secondary Recovery
0400-54-09-.08
Application For Hearing

April 16, 2024

Roxanne Reiley, Deputy Director, Division of Mineral and Geologic Resources



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Initial Order
TDEC v. Hydra Pools, Inc. DWS22-0014

Board of Water Quality, Oil, and Gas April 16, 2024

TDEC v. Hydra Pools Inc., 04.30-225204J

- Appeal of Director's Order alleging Respondent had violated the Tennessee Safe Drinking Water Act of 1983, Tenn. Code Ann. §§ 68-221-701 to -720 (SDWA), and its implementing rules and regulations related to the Respondent's operation of a public water system in McMinn County, Tennessee.
- The Director's Order required the Respondent to perform corrective action to bring the System into compliance with the SDWA and its implementing rules, including performing well disinfection, performing bacteriological and nitrate sampling and monitoring, installing a backflow prevention device, and maintaining a certified operator for the System.

TDEC v. Hydra Pools Inc., 04.30-225204J

- Motion for Summary Judgment hearing held December 13, 2023.
- Initial Order granting TDEC's motion for summary judgment was issued on March 21, 2024.

Initial Orders

The administrative judge's initial order, together with any earlier orders issued by the administrative judge, shall become final unless appealed to the board by the commissioner or other party within thirty (30) days of entry of the initial order or, unless the board passes a motion to review the initial order pursuant to § 4-5-315, within the longer of thirty (30) days or seven (7) days after the first board meeting to occur after entry of the initial order. Upon appeal to the board by a party, or upon passage of a motion of the board to review the administrative judge's initial order, the board shall afford each party an opportunity to present briefs, shall review the record and allow each party an opportunity to present oral argument. If appealed to the board, the review of the administrative judge's initial order shall be limited to the record, but shall be de novo with no presumption of correctness.

Tenn. Code Ann. § 69-3-110(a)

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Options

- Pass a motion to review the initial order;
- Pass a motion not to review the initial order; or
- Take no action, which results in the initial order becoming a final order in 7 days, provided that no party appeals within 30 days after entry of the initial order.



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TDEC OGC & Contested Case Updates

Board of Water Quality, Oil, and Gas April 16, 2024

Orders and Appeals

From October 1, 2023-March 31, 2024

- DWR has issued 61 new enforcement orders.
 - 50 Director's Orders
 - 4 Commissioner's Orders
 - 7 Agreed or Consent Orders
- During this time there has been one new permit appeal.
- In addition, during this time, three Section 118(a) complaints were filed, and one Section 118(a) determination was appealed.



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Division of Water Resources Updates

Jennifer Dodd, Director, DWR

Any Old Business?

Thank you for joining us.
Any questions, please direct to
Drake.Smarch@tn.gov