

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 02-05-14
Rule ID(s): 5666
File Date: 2/4/14
Effective Date: 5/5/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Environment and Conservation
Division:	Water Resources
Contact Person:	Britton Dotson
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 11 th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0774
Email:	Britton.Dotson@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0400-45-06	Chapter 0400-45-06
Rule Number	Rule Title
0400-45-06-.18	Fees For Class V Injection Wells

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

Chapter 0400-45-06 Underground Injection Control

Paragraphs (1) and (2) of Rule 0400-45-06-.18 Fees For Class V Injection Wells is amended by deleting them in their entirety and replacing them with the following so that, as amended, the paragraphs shall read:

(1) Application Fees

Provided the application fee has not been paid under Rule 0400-40-11-.02 or 0400-48-01-.21, applications for authorizations or permits for the following Class V injection wells shall be accompanied by the following one-time application review fees:

(a)	Innovative technology wells	\$1,000 (per project)
(b)	Storm water drainage wells.	
	Subdivision	\$500 (per project)
	Commercial/industrial facilities	\$750 (per project)
(c)	Commercial/industrial geothermal wells	
	Open loop systems	\$750 (per facility)
(d)	Commercial/industrial SFDS and infiltration cells	\$500 (per facility)
(e)	Large capacity septic systems	\$250 (per facility)
	Churches	\$100 (per facility)
(f)	Remediation wells	
	Oversight under this rule	\$1,000 (per project)
	Oversight by the Commissioner not under this rule	None
(g)	Change of ownership	\$75
(h)	Modification of recharge point	\$350 (per project)

(2) Renewal Fee

Provided the annual maintenance fee has not been paid under Rule 0400-40-11-.02, the following Class V wells shall submit the following fees with the renewal application:

(a)	Storm water drainage wells	
	Commercial/industrial facilities:	\$350 (per facility)
(b)	Commercial/industrial geothermal wells	
	Open loop	\$350 (per facility)
(c)	Commercial/industrial SFDS and infiltration cells:	\$50 (per facility)
(d)	Large capacity septic systems	\$250 (per facility)
	Churches	\$50 (per facility)

Authority: T.C.A. §§ 69-3-101 et seq., 68-203-101 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
James W. Cameron III	✓				
Jill E. Davis	✓				
Mayor Kevin Davis				✓	
Derek Gernt	✓				
John Guoynes	✓				
C. Monty Halcomb	✓				
Chuck Head	✓				
Charlie R. Johnson	✓				
Judy Manners	✓				
John McClurkan	✓				
Frank McGinley	✓				
D. Anthony Robinson	✓				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Water Quality, Oil and Gas on 01/21/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/18/13

Rulemaking Hearing(s) Conducted on: (add more dates). 12/10/13

Date: January 21, 2014

Signature: *James W. Cameron III*

Name of Officer: James W. Cameron III

Title of Officer: Chair



Subscribed and sworn to before me on: January 21, 2014

Notary Public Signature: *Carol L. Brice*

My commission expires on: June 21, 2016

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter

1-28-14
Date

Department of State Use Only

Filed with the Department of State on: 2/4/14

Effective on: 5/5/14

Tre Hargett
Tre Hargett
Secretary of State

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2014 FEB -4 AM 11:26
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SECRETARY OF STATE

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: A commenter expressed their appreciation of the Department's attempts to be fair, such as by eliminating unnecessary or duplicative fees.

Response: We acknowledge the commenter's assessment of our efforts and recommended the adoption of these amendments.

Comment: A commenter requested the amount of state appropriation allotted to this division for FY 2013-14, the amount allotted in 2012-13, and the amount of anticipated appropriation for FY 2014-15.

Response: In FY 2012-13, the legacy Division of Water Pollution Control (WPC) was appropriated \$9,424,700; the legacy Division of Water Supply (DWS) was appropriated \$1,002,200; and the legacy Groundwater Protection Division (GWP) was appropriated \$2,155,400. When combined into the Division Water Resources the total appropriated for this period was \$12,582,300 (WPC 74.9%, DWS 8%, GWP 17.1%). For FY 2013-14, the Division of Water Resources was appropriated \$13,435,100; an increase of \$852,800 from the previous fiscal year. The percentage of allocations to the legacy programs within the Division of Water Resources would have increase by proportionally to each program. Since the Administration is in the process of developing the recommended budget for FY 2014-15, which the Governor will submit to the General Assembly in late January 2014, we are not able to determine the amount that will be appropriated. However, we do not anticipate that the appropriation will be decreased.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This amendment proposes to eliminate the potential for duplicate fees in Class V injection well rules that existed before TDEC's three heritage water divisions were merged into the Division of Water Resources. Under the proposed changes, if the appropriate permit application fees are paid through the Environmental Protection Fund (EPF) rule or the Subsurface Sewage Disposal System rule; those fees will no longer be assessed under the Underground Injection Control (UIC) fee rule. Also, the annual maintenance fee would not apply if paid through the EPF rule.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

This change will primarily benefit applicants and permittees for large capacity septic systems and decentralized wastewater systems not utilizing spray irrigation. The Department receives about 10 permit applications per year and about 300 permittees pay the annual maintenance fee.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There will be no impact as a result of this rulemaking.

- (3) A statement of the probable effect on impacted small businesses and consumers.

There will be no impact as a result of this rulemaking.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

None.

- (5) A comparison of the proposed rule with any federal or state counterparts.

Our rules remain consistent with surrounding states and the federal program does not have a comparable fee rule.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

This amendment is beneficial to small businesses, therefore no exemption was proposed.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department anticipates that these amendments will not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This amendment proposes to eliminate the potential for duplicate fees in Class V injection well rules that existed before TDEC's three heritage water divisions were merged into the Division of Water Resources. Under the proposed changes, if the appropriate fees are paid through the Environmental Protection Fund (EPF) rule or the Subsurface Sewage Disposal System rule, those fees will no longer be assessed under the Underground Injection Control (UIC) fee rule. Also, the annual maintenance fee would not apply if paid through the EPF rule.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rulemaking is being promulgated under the authority of the Water Quality Control Act of 1977, T.C.A. §§ 69-3-101 et seq. and T.C.A. §§ 68-203-101 et seq. the Tennessee Environmental Protection Fund.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This change will primarily affect applicants for large capacity septic systems and decentralized wastewater systems not utilizing spray irrigation. Multiple commenters supported the Department's efforts to eliminate duplicative fees.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any opinions or judicial rulings that directly relate to this rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This amendment does not generate additional revenues.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Britton Dotson
Division of Water Resources
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243
(615) 532-0774

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jenny Howard
Deputy General Counsel
Office of General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 532-8685
Jenny.Howard@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any additional relevant information.

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Division:	Water Resources
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Zip:	37243
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Revision Type (check all that apply):

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Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0400-45-06	Chapter 0400-45-06
Rule Number	Rule Title
0400-45-06-.18	Fees For Class V Injection Wells

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

Chapter 0400-45-06 Underground Injection Control

Paragraphs (1) and (2) of Rule 0400-45-06-.18 Fees For Class V Injection Wells is amended by deleting them in their entirety and replacing them with the following so that, as amended, the paragraphs shall read:

(1) Application Fees

Provided the application fee has not been paid under Rule 0400-40-11-.02 or 0400-48-01-.21, Applications applications for authorizations or permits for the following Class V injection wells shall be accompanied by the following one-time application review fees:

(a)	Innovative technology wells	\$1,000 (per project)
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(e)	Large capacity septic systems	\$250 (per facility)
	Churches	\$100 (per facility)
(f)	Remediation wells	
	Oversight under this rule	\$1,000 (per project)
	Oversight by the Commissioner not under this rule	None
(g)	Change of ownership	\$75
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(2) Renewal Fee

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Authority: T.C.A. §§ 69-3-101 et seq., 68-203-101 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
James W. Cameron III	X				
Jill E. Davis	X				
Mayor Kevin Davis				X	
Derek Gernt	X				
John Guynes	X				
C. Monty Halcomb	X				
Chuck Head	X				
Charlie R. Johnson	X				
Judy Manners	X				
John McClurkan	X				
Frank McGinley	X				
D. Anthony Robinson	x				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Water Quality, Oil and Gas on 01/21/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/18/13

Rulemaking Hearing(s) Conducted on: (add more dates). 12/10/13

Date: January 21, 2014

Signature: _____

Name of Officer: James W. Cameron III

Title of Officer: Chair

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

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Comment: A commenter expressed their appreciation of the Department's attempts to be fair, such as by eliminating unnecessary or duplicative fees.

Response: We acknowledge the commenter's assessment of our efforts and recommended the adoption of these amendments.

Comment: A commenter requested the amount of state appropriation allotted to this division for FY 2013-14, the amount allotted in 2012-13, and the amount of anticipated appropriation for FY 2014-15.

Response: In FY 2012-13, the legacy Division of Water Pollution Control (WPC) was appropriated \$9,424,700; the legacy Division of Water Supply (DWS) was appropriated \$1,002,200; and the legacy Groundwater Protection Division (GWP) was appropriated \$2,155,400. When combined into the Division of Water Resources the total appropriated for this period was \$12,582,300 (WPC 74.9%, DWS 8%, GWP 17.1%). For FY 2013-14, the Division of Water Resources was appropriated \$13,435,100; an increase of \$852,800 from the previous fiscal year. The percentage of allocations to the legacy programs within the Division of Water Resources would increase proportionally to each program. Since the Administration is in the process of developing the recommended budget for FY 2014-15, which the Governor will submit to the General Assembly in late January 2014, we are not able to determine the amount that will be appropriated. However, we do not anticipate that the appropriation will be decreased.

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- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

This change will primarily benefit applicants and permittees for large capacity septic systems and decentralized wastewater systems not utilizing spray irrigation. The Department receives about 10 permit applications per year and about 300 permittees pay the annual maintenance fee.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There will be no impact as a result of this rulemaking.

- (3) A statement of the probable effect on impacted small businesses and consumers.

There will be no impact as a result of this rulemaking.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

None.

- (5) A comparison of the proposed rule with any federal or state counterparts.

Our rules remain consistent with surrounding states and the federal program does not have a comparable fee rule.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

This amendment is beneficial to small businesses, therefore no exemption was proposed.

Impact on Local Governments

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Additional Information Required by Joint Government Operations Committee

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This amendment proposes to eliminate the potential for duplicate fees in Class V injection well rules that existed before TDEC's three heritage water divisions were merged into the Division of Water Resources. Under the proposed changes, if the appropriate fees are paid through the Environmental Protection Fund (EPF) rule or the Subsurface Sewage Disposal System rule, those fees will no longer be assessed under the Underground Injection Control (UIC) fee rule. Also, the annual maintenance fee would not apply if paid through the EPF rule.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rulemaking is being promulgated under the authority of the Water Quality Control Act of 1977, T.C.A. §§ 69-3-101 et seq. and T.C.A. §§ 68-203-101 et seq. the Tennessee Environmental Protection Fund.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This change will primarily affect applicants for large capacity septic systems and decentralized wastewater systems not utilizing spray irrigation. Multiple commenters supported the Department's efforts to eliminate duplicative fees.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any opinions or judicial rulings that directly relate to this rule.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This amendment does not generate additional revenues.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

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- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jenny Howard
Deputy General Counsel
Office of General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 532-8685
Jenny.Howard@tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any additional relevant information.