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TENNESSEE ADMINISTRATIVE REGISTER



June 15, 2000
Volume 24, Number 6

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RILEY C. DARNELL
Secretary of State

Division of Publications
312 Eighth Avenue North
8th Floor, William R. Snodgrass Tower
Nashville TN 37243 - 0310

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Department of State, Authorization No. 305084, 530 copies, June 2000. This public document was promulgated at a cost of \$ 2.92 per copy.

PREFACE

The Tennessee Administrative Register (T.A.R) is an official publication of the Tennessee Department of State. The *T.A.R.* is compiled and published monthly by the Department of State pursuant to *Tennessee Code Annotated, Title 4, Chapter 5*. The *T.A.R.* contains in their entirety or in summary form the following: (1) various announcements (e.g. the maximum effective rate of interest on home loans as set by the Department of Commerce and Insurance, formula rate of interest and notices of review cycles); (2) emergency rules; (3) proposed rules; (4) public necessity rules; (5) notices of rulemaking hearings and (6) proclamations of the Wildlife Resources Commission.

Emergency Rules are rules promulgated due to an immediate danger to the public health, safety or welfare. These rules are effective immediately on the date of filing and remain in effect thereafter for up to 165 days. Unless the rule is promulgated in some permanent form, it will expire after the 165-day period. The text or a summary of the emergency rule will be published in the next issue of the *T.A.R.* after the rule is filed. Thereafter, a list of emergency rules currently in effect will be published.

Proposed Rules are those rules the agency is promulgating in permanent form in the absence of a rulemaking hearing. Unless a rulemaking hearing is requested within 30 days of the date the proposed rule is published in the *T.A.R.*, the rule will become effective 105 days after said publication date. All rules filed in one month will be published in the *T.A.R.* of the following month.

Public Necessity Rules are promulgated to delay the effective date of another rule that is not yet effective, to satisfy constitutional requirements or court orders, or to avoid loss of federal programs or funds. Upon filing, these rules are effective for a period of 165 days. The text or summary of the public necessity rule will be published in the next issue of the *T.A.R.* Thereafter, a list of public necessity rules currently in effect will be published.

Once a rule becomes effective, it is published in its entirety in the *official compilation-Rules and Regulations of the State of Tennessee*. Replacement pages for the compilation are published on a monthly basis as new rules or changes in existing rules become effective.

Wildlife Proclamations contain seasons, creel, size and bag limits, and areas open to hunting and/or fishing. They also establish wildlife and/or public hunting areas and declare the manner and means of taking. Since Wildlife Proclamations are published in their entirety in the *T.A.R.*, they are not published in the official compilation-Rules and Regulations of the State of Tennessee.

Subscription Orders - The subscription rate, payable in advance, is \$ 50 per year. An order form may be found in the back of each issue of the *Tennessee Administrative Register*.

Back Issues - Some back issues of the *Tennessee Administrative Register* are available. Please send \$ 1.50 per issue along with the volume, number and date you wish to order to the address in the back of this issue.

Copies of Rules from Back Issues of the *Tennessee Administrative Register* may be ordered from the Division of Publications for 25 cents per page with \$ 1.00 minimum. Back issues presently available start with the August, 1975 edition. The mailing address of the Division of Publications is shown on the order form in the back of each issue.

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ANNOUNCEMENTS

DEPARTMENT OF ENVIRONMENT AND CONSERVATION – 0400

PETITION FOR DECLARATORY ORDER NOTICE OF HEARING

Pursuant to *Tennessee Code Annotated Section 4-5-224*, the Tennessee Air Pollution Control Board gives the following notice of hearing on a petition for declaratory order:

1. Petitioner's Name:

Blaylock & Brown Construction Company, Inc. d/b/a Frank Road Landfill

2. Petitioner's Attorney:

Dean White

John Farris

Address:

Farris, Mathews, Branam, Bobango & Hellen, P.L.C.

One Commerce Square, Suite 200

Memphis, Tennessee 38103

Telephone number:

(901) 259-7100

3. Organization, if any, that the Petitioner represents:

Organization Name:

N/A

Address:

N/A

4. Summary of the relief requested:

Petitioner requests a declaratory order from the Tennessee Air Pollution Control Board that the Board of Mayor and Aldermen for the Town of Collierville was not authorized to hear appeals in administrative cases initiated by the Memphis and Shelby County Health Department (MSCHD) pursuant to its certificate of exemption from state air pollution control laws.

5. Summary of the statute that the agency is called upon to interpret or upon which it is to rule.

Tenn. Code Ann. § 68-201-115

This statutory section allows the Board to exempt a county or municipality in this state from the provisions of the Tennessee Air Quality Act, *T.C.A. §68-201-101 et seq.* provided that these local governments have adopted through ordinances or resolution requirements at least as stringent as under the state statutes and rules. Shelby County and the City of Memphis have, for more than 20 years, operated under certificates of exemption which may be issued for four year terms. The Memphis/Shelby County Health Department jointly operates a program in the county and city. In addition, a number of city governments, located within Shelby County, have adopted ordinances opting into the local program administered by the MSCHD.

The existing Certificate of Exemption given to the City of Memphis and Shelby County and these governments have established a joint Board to hear administrative cases arising from the operation of the local air pollution control program. The municipalities within Shelby County, other than Memphis, have passed ordinances which adopt the provisions of the Memphis and Shelby County air pollution control ordinances in order to come under the regulatory jurisdiction of the Memphis/Shelby County program. Two municipalities within Shelby County, however, adopted ordinances that did not grant jurisdiction to the local Board for administrative review, but rather reserved the authority to hear administrative cases to the local governing bodies. The Petitioners maintain that the attempt to reserve jurisdiction to the city governing bodies and avoid the local Board was not allowed by the Certificate of Exemption, and violated the above-referenced statute.

A contested case hearing has been scheduled for June 14, 2000, 9:30 a.m., 17th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243

The Notice of Hearing of Petition for Declaratory Order set out herein was properly filed in the office of the Secretary of State, Publications Division, on this the 5th day of May, 2000. (05-13)

**DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620
BUREAU OF TENNCARE**

PETITION FOR DECLARATORY ORDER

NOTICE OF HEARING

Pursuant to *Tennessee Code Annotated* § 4-5-224, the Tennessee Department of Finance and Administration, Bureau of TennCare, gives the following notice of hearing on a petition for declaratory order:

1. Petitioners' Name: Anna Posey

2. Petitioners' Attorneys: Lenny L. Croce
Address: P.O. Box 5209
Oak Ridge, TN 377831
Telephone Number: (865)483-8454

3. Organization, if any, that the Petitioners represent: N/A

4. Summary of the relief requested:

Petitioner requests that the Court find that the Commissioner deprived her of due process safeguards in violation of 42 C.F.R. pt. 431, subpt. E. Petitioner further requests that Commissioner be enjoined from allowing East Tennessee Baptist Hospital to balance bill for covered services. Petitioner also seeks reimbursement, costs and other relief.

5. Summary of the statute and rules the agency is called upon to interpret:

42 C.F.R. part 431, subpt E. This subpart pertains to fair hearings for Medicaid/TennCare recipients.

42 C.F.R. 447.15. This section pertains to payment to Medicaid providers.

A contested case hearing has been scheduled before an Administrative Law Judge sitting for the Commissioner of Finance and Administration on June 29th, 2000 at 1:00 PM Eastern Time, at Knox County Health Department, 140 Dameron Avenue, Knoxville, TN 37917

The Notice of Hearing of Petition for Declaratory Order set out herein was properly filed in the Office of the Secretary of State Publications Division, on this the 17th day of May, 2000. (05-12)

DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180**ANNOUNCEMENT OF FORMULA RATE OF INTEREST**

Pursuant to the provisions of Chapter 464, Public Acts of 1983, the Commissioner of Financial Institutions hereby announces that the formula rate of interest is 13.50 per cent.

This announcement is placed in the Tennessee Administrative Register for the purpose of information only and does not constitute a rule within the meaning of the Uniform Administrative Procedures Act.

DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180**ANNOUNCEMENT OF MAXIMUM EFFECTIVE RATE OF INTEREST**

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of July 2000 is 10.00 per cent per annum.

The rate as set by the said law is an amount equal to four percentage points above the index of market yields of long term government bonds adjusted to a thirty (30) year maturity by the U. S. Department of the Treasury. For the most recent weekly average statistical data available preceding the date of this announcement, the published rate is 6.00 per cent.

Persons affected by the maximum effective rate of interest for home loans as set forth in this notice should consult legal counsel as to the effect of the Depository Institutions Deregulation and Monetary Control Act of 1980 (P. L. 96-221 as amended by P. L. 96-399) and regulations pursuant to that Act promulgated by the Federal Home Loan Bank Board. State usury laws as they relate to certain loans made after March 31, 1980, may be preempted by this Act.

GOVERNMENT OPERATIONS COMMITTEES**ANNOUNCEMENT OF PUBLIC HEARINGS**

For the date, time, and, location of this hearing of the Joint Operations committees, call 615-741-3642. The following rules were filed in the Secretary of State's office during the month of May 2000. All persons who wish to testify at the hearings or who wish to submit written statements on information for inclusion in the staff report on the rules should promptly notify Fred Standbrook, Suite G-3, War Memorial Building, Nashville, TN 37243-0059, (615) 741-3074.

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-01	May 12, 2000	0660 Board of Funeral Directors and Embalmers	Proposed Rules	Amendments	Chapter 0660-4 Reports 0660-4-.03 Changes	Cecil H. Ross Dept of Commerce and Insurance 25 th Fl, Snodgrass Tower 312 Eighth Avenue North Nashville, TN 37243 (615) 741-9465	Sept 28, 2000
05-03	May 12, 2000	0400 Environment and Conservation Superfund	Rulemaking Hearing Rules	Amendments	Chapter 1200-1-13 Hazardous Substance Remedial Action 1200-1-13-.13 List of Inactive Hazardous Substance Sites 19-559	Robert L. Powell Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	July 26, 2000
05-04	May 12, 2000	0400 Environment and Conservation Superfund	Rulemaking Hearing Rules	Amendments	Chapter 1200-1-13 Hazardous Substance Remedial Action 1200-1-13-.13 List of Inactive Hazardous Substance Sites 23-506	Robert L. Powell Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	July 26, 2000
05-05	May 12, 2000	0400 Environment and Conservation Superfund	Rulemaking Hearing Rules	Amendments	Chapter 1200-1-13 Hazardous Substance Remedial Action 1200-1-13-.13 List of Inactive Hazardous Substance Sites 32-506	Robert L. Powell Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	July 26, 2000
05-06	May 12, 2000	0400 Environment and Conservation Superfund	Rulemaking Hearing Rules	Amendments	Chapter 1200-1-13 Hazardous Substance Remedial Action 1200-1-13-.13 List of Inactive Hazardous Substance Sites 49-506	Robert L. Powell Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	July 26, 2000
05-07	May 12, 2000	0400 Environment and Conservation Superfund	Rulemaking Hearing Rules	Amendments	Chapter 1200-1-13 Hazardous Substance Remedial Action 1200-1-13-.13 List of Inactive Hazardous Substance Sites 49-506	Robert L. Powell Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	July 26, 2000
05-08	May 15, 2000	0520 Board of Education	Emergency Rule	Amendment	Chapter 0520-2-4 Licensure 0520-2-4-.03 Interim License and Permit	Karen Weeks State Board of Education 9th Fl, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN, 37243-1050 615) 532-3528	May 15, 2000 through October 28, 2000
05-10	May 15, 2000	1200 Dept of Health Bureau of Health Services	Proposed Rules	New Rules	Chapter 1200-11-2 Hemophilia Program 1200-11-2-.01 Statement of Purpose 1200-11-2-.02 Definitions	Jerrold R. Daniels Cordell Hull Bldg, 3rd Fl 425 Fifth Avenue North Nashville TN 37247-0101	September 28, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-10, cont.					1200-11-2-.03 Eligibility Requirements 1200-11-2-.04 Covered Services 1200-11-2-.05 Authorization and Reimbursement for Services 1200-11-2-.06 Removal from Program 1200-11-2-.07 Appeal Process	(615) 741-3111	
05-14	May 17, 2000	1200 Dept of Health Board For Licensing Health Care Facilities	Rulemaking Hearing Rules	New Rules	Chapter 1200-8-31 Eden Alternative™ Grants Program 1200-8-31-.01 Definitions 1200-8-31-.02 Purpose 1200-8-31-.03 Participation of Providers 1200-8-31-.04 Funding and Grant Award Amounts 1200-8-31-.05 Submission of Grant Proposals 1200-8-31-.06 Proposal Review Process 1200-8-31-.07 Awarding of Grants 1200-8-31-.08 Required Training 1200-8-31-.09 Records and Reports 1200-8-31-.10 Program Evaluation	Robbie Bell General Counsel Dept of Health Office of General Counsel 26 th Fl, TN Tower 212 Eighth Avenue North Nashville, TN 37247-0120 615-741-1611	July 31, 2000
05-16	May 18, 2000	1150 Board of Occupational and Physical Therapy Committee of Physical Therapy	Notice of Stay of Effective Date of Rules		03-08 Filed March 16, 2000; effective May 30, 2000 words "including, but not limited to, electrophysiologic studies (e.g., diagnostic and kinesiology electromyography [EMG], motor and sensory neural conduction, and somatosensory evoked potentials);" as found in subparagraph (3) (b) of rule 1150-1-.01, Definitions 1150-1-.04(4) Qualifications for Licensure		
05-17	May 18, 2000	0400 Dept of Environment and Conservation Bureau of Environment Air Pollution Control	Rulemaking Hearing Rules		Chapter 1200-3-16 New Source Performance Standards 1200-3-16-.53 Nonmetallic Mineral Processing Plants	Mr. Jeryl W. Stewart Air Pollution Control 9th Fl L & C Annex 401 Church Street Nashville, TN 37243-1531 (615)532-0605	August 1, 2000
05-19	May 18, 2000	0620 Dept of Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendment	Chapter 1200-13-6 Nursing Facility Level I Program 1200-13-6-.10 Medicaid Nursing Facility Level I Accounting Principles	George Woods Bureau of TennCare 729 Church St Nashville TN 37247-6501 615-741-0145	August 2, 2000
05-22	May 19, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-1-2 Rules and Regulations for Birds 1660-1-2-.02 Migratory Bird Hunting	Sheryl Holtam, Attorney TN Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 (615)781-6606	August 2, 2000

ANNOUNCEMENTS

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SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-23	May 19, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-1-8 Rules and Regulations of Hunts 1660-1-8-.05 Permit Applications and Drawings	Sheryl Holtam, Attorney TN Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 (615)781-6606	August 2, 2000
05-24	May 19, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-1-8 Rules and Regulations of Hunts 1660-1-8-.06 Hunting and Miscellaneous Uses of Public Hunting Areas	Sheryl Holtam, Attorney TN Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 (615)781-6606	August 2, 2000
05-25	May 19, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-2-7 Rules and Regulations Governing Operation of Vessels 1660-2-7-.22 Kentucky Lake	Sheryl Holtam, Attorney TN Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 (615)781-6606	August 2, 2000
05-26	May 19, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-2-7 Rules and Regulations Governing Operation of Vessels 1660-2-7--.30 Parksville Lake	Sheryl Holtam, Attorney TN Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 (615)781-6606	August 2, 2000
05-31	May 31, 2000	0080 Dept of Agriculture Animal Industries	Emergency rules	Amendments	Chapter 0080-2-1 Health Requirements For Admission And Transportation Of Livestock And Poultry 0080-2-1-.07 Swine	Pat Clark, General Counsel P. O. Box 40627 Nashville, TN 37204 615-837-5093	May 31, 2000 through October 28, 2000
05-35	May 31, 2000	1700 Dept of Treasury Bank Collateral Pool Board	Proposed Rules	Amendments	Chapter 1700-4-1 Bank Collateral Pool 1700-4-1-.04 Determination of Collateral Pledge Level	Mary Krause, General Counsel 10th Fl Andrew Jackson Bldg Nashville, TN 37243-0230 (615) 741-7063	September 28, 2000
05-41	May 31, 2000	1200 Dept of Health Board for Licensing Health Care Facilities	Rulemaking Hearing Rules	New Rules	Chapter 1200-8-26 Standards for Home Care Organizations Providing Home Health Services 1200-8-26-.01 Definitions 1200-8-26-.02 Licensing Procedures 1200-8-26-.03 Disciplinary Procedures 1200-8-26-.04 Administration 1200-8-26-.05 Admissions, Discharge, and Transfers 1200-8-26-.06 Basic Agency Functions	Robbie Bell Office of General Counsel 26 th Fl, TN Tower Dept of Health 615-741-1611	August 14, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-41, cont.					1200-8-26-.07 Reserved 1200-8-26-.08 Reserved 1200-8-26-.09 Reserved 1200-8-26-.10 Infectious and Hazardous Waste 1200-8-26-.11 Records and Reports 1200-8-26-.12 Patient Rights 1200-8-26-.13 Procedures for the Withholding of Resuscitative Services 1200-8-26-.14 Disaster Preparedness	Sheryl Holtam, Attorney TN Wildlife Resources Agency PO Box 40747 Nashville, TN 37204 (615) 781-6606	August 14, 2000
05-43	May 31, 2000	1660 Wildlife Resources Agency Wildlife Resources	Rule Making Hearing Rules	New Rules	Chapter 1660-1-27 <i>Rules and Regulations for State Operated Hunter Education Centers and Firing Ranges</i> 1660-1-27-.01 Public Usage 1660-1-27-.02 Use Permits – Fees 1660-1-27-.03 General Rules 1660-1-27-.04 Stones River Hunter Education 1660-1-27-.05 Bartlett Hunter Education Center	Sheryl Holtam, Attorney TN Wildlife Resources Agency PO Box 40747 Nashville, TN 37204 (615) 781-6606	August 14, 2000
05-44	May 31, 2000	1660 Wildlife Resources Agency Wildlife Resources	Rule Making Hearing Rules	New Rules	Chapter 1660-2-7 <i>Rules and Regulations Governing Operations of Vessels</i> 1660-2-7-.33 Lake Barkley	Sheryl Holtam, Attorney TN Wildlife Resources Agency PO Box 40747 Nashville, TN 37204 (615) 781-6606	August 14, 2000
05-47	May 31, 2000	1340 Dept of Safety Safety Education of Staff Services Division	Proposed rules	Amendments	Chapter 1340-1-11 <i>Motorcycle Rider Education Program</i> 1340-1-11-.02 Definitions 1340-1-11-.03 Rider Training Course 1340-1-11-.04 Instructor Qualifications 1340-1-11-.07 Course Site Requirements 1340-1-11-.09 Training Fees and Subsidy 1340-1-11-.12 Certificate of Completion for Students	Pat Wall, Staff Attorney Legal Division Dept of Safety 1150 Foster Avenue Nashville, TN 37249-1000 (615) 251-5297	September 28, 2000
05-48	May 31, 2000	1360 Dept of State Business Services	Proposed rules	New Rules	Chapter 1360-7-1 Trademarks 1360-7-1-.01 Classification of Goods and Services 1360-7-1-.02 Fees	Bob Grunow Director of Business Services Dept of State 6 th Fl William R. Snodgrass Twr Nashville, TN 37243 615-741-0584	September 28, 2000
05-51	May 31, 2000	1660 Wildlife Resources Commission	Rulemaking Hearing Rules	Rulemaking Hearing Rules	Chapter 1660-2-7 <i>Rules and Regulations for Governing Operations of Vessels</i> 1660-2-7-.34 Dale Hollow Lake	Sheryl Holtam F. O. Box 40747 Nashville, TN 37204 615-781-6606	August 14, 2000

**BOARD OF OCCUPATIONAL AND PHYSICAL THERAPY EXAMINERS - 1150
COMMITTEE OF PHYSICAL THERAPY
DIVISION OF HEALTH RELATED BOARDS**

NOTICE OF STAY OF EFFECTIVE DATE

The Board of Occupational and Physical Therapy Examiners' Committee of Physical Therapy hereby gives notice that the seventy-five (75) day period for the words "including, but not limited to, electrophysiologic studies (e.g., diagnostic and kinesiologic electromyography [EMG], motor and sensory neural conduction, and somatosensory evoked potentials);" as found in subparagraph (31) (b) of rule 1150-1-.01, Definitions, and the seventy-five (75) day period for paragraph (4) of rule 1150-1-.04, Qualifications for Licensure, filed with the Department of State on the 16th day of March, 2000 to have become effective on the 30th day of May, 2000 is hereby stayed for sixty (60) days. Period of time not to exceed sixty (60) days.

The notice of stay set out herein was properly filed in the Department of State on the 18th day of May, 2000, and will be effective from the date of filing for a period of sixty (60) days. The stay of effective date of rules will remain in effect through the 18th day of July, 2000, unless properly withdrawn by the agency. (05-16)

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Paragraph (1) of Rule 0520-2-4-.03 Interim License and Permit is amended by adding the following language as subparagraph (e) so that as amended the subparagraph shall read:

- (e) Interim E License. Alternative licensure for individuals who do not complete programs.
1. The applicant must have been granted at least a bachelor's degree from a regionally accredited institution of higher education. The candidate must meet the content requirements for the desired area of endorsement by one of the following: (a) completion of an academic major in the desired area of endorsement, (b) determination by an institution of higher education that the person has met the knowledge and skills required for the desired area of endorsement, or (c) successful completion of the required specialty examination.
 2. A Tennessee superintendent/director of schools must state intent to employ the applicant and must provide a mentor teacher for the applicant during the first two years of teaching.
 3. The applicant who has not completed professional education, must complete the professional education component of an approved teacher education institution, not to exceed 24 semester hours. The institution will verify completion of the required knowledge and skills through a combination of course work and field experiences and will verify that the applicant has completed the testing requirements in basic skills established by the State Board of Education.
 4. An individual may be reissued an Interim E License not more than two times provided that a superintendent/director of schools states intent to employ. Before the first renewal, the individual must be enrolled in an institution with an approved program of studies. For each renewal, the individual must complete at least 6 semester hours of credit, unless all course work requirements have been met.
 5. Applicants are eligible for an Interim E License in all areas except early childhood education, middle grades education, and elementary education.
 6. In lieu of student teaching, an individual may present a positive recommendation from the employing school system verifying two years of successful teaching.

Authority: T.C.A. §§49-1-302, 49-5-108.

The emergency rules set out herein were properly filed in the Department of State on the 15th day of May, 2000, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 28th day of October, 2000. (05-08)

STATE BOARD OF EDUCATION - 0520**CHAPTER 0520-2-4
LICENSURE****STATEMENT OF NECESSITY REQUIRING EMERGENCY RULE**

Pursuant to *T.C.A. 4-5-208*, the Tennessee State Board of Education promulgates this rule without prior notice as an emergency rule to provide for alternative licensure for teachers under an Interim E License. The Board takes this action because of an immediate danger to the public welfare.

The Board has found that Tennessee is experiencing a critical shortage of teachers in selected subject areas and in certain geographic areas of the state. The number of teachers teaching on waivers and permits has risen from 814 in 1995-96 to 1372 in 1998-99, representing an increase of 69%. The number is projected to increase even more as school systems deal with the class size requirements of the Education Improvement Act by Fall 2001. The teacher shortage is expected to intensify as the “baby boom” generation of teachers reach retirement age. Tennessee’s public schools need qualified teachers to be able to deliver the State’s basic education program to all Tennessee public school students. One way to reduce the shortage is to create a new pool of qualified individuals to teach in public schools.

The proposed Interim E License is designed to attract persons seeking to change careers and enter teaching. Many people have expertise in subjects that are in great demand, such as mathematics and science. The proposed rule would allow them to begin teaching this Fall, provided they pass the Praxis (ETS teacher exam) in the relevant subject area. While teaching, they will have three years in which to complete their studies in education after which they will be issued a regular license.

The prompt implementation of the Interim E License will help to ameliorate the shortage of qualified teachers. Timing, however, is critical. In order for teachers to be able to use this license for employment in Fall 2000, the rule must be implemented immediately. Prospective teachers must register for the required examination by May 23 and must take the examination on June 24. The Department of Education must notify school systems and prospective teachers immediately of the proposed license. If the regular rule making procedure is followed, it would effectively delay the implementation of this license for an entire school year, or until Fall 2001. For the sake of Tennessee school children, this delay can not be tolerated.

For a copy of this proposed rule, contact Karen Weeks, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 532-3528.

Hubert McCullough
Chairman
State Board of Education

The text of the proposed rule is as follows:

**EMERGENCY RULES
OF
THE STATE BOARD OF EDUCATION AMENDMENT

CHAPTER 0520-2-4
LICENSURE**

(1) Breeding and Feeding swine

- (e) All swine entering Tennessee from states or areas designated as Stage II for pseudorabies must obtain an entry permit as provided in 0080-2-1.04 of these rules.

Authority: T.C.A. §§44-2-1302 and 4-3-203.

Rule 0080-2-1-.07 Swine is amended by adding the following new subparagraph (c) to paragraph (2) so that as amended the subparagraph shall read:

(2) Slaughter Swine

- (c) Swine originating from pseudorabies quarantined herds moving into Tennessee must be accompanied by a VS-Form 1-27 and move directly to a slaughter establishment for immediate slaughter. Such swine must be transported in vehicles sealed by an accredited veterinarian. Seals may be broken only at federally licensed slaughter establishments.

Authority: T.C.A. §§44-2-1302 and 4-3-203.

The emergency rules set out herein were properly filed in the Department of State 31st day of May, 2000, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 12th day November, 2000. (05-31)

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE - 0080
DIVISION OF ANIMAL INDUSTRIES

STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES

Pursuant to *T.C.A. §4-5-208*, the Tennessee Department of Agriculture is promulgating emergency rules in response to the recent diagnoses of pseudorabies in the swine population on multiple premises in west Tennessee and to protect against further importations of infected swine.

To date, several Tennessee farms have had to totally depopulate their infected herds. These emergency rules will restrict the importation of the pseudorabies virus by requiring entry permits for all swine entering Tennessee from states or areas designated as Stage II for pseudorabies. These rules also require that infected herds entering Tennessee must be transported in vehicles sealed by an accredited veterinarian and that these seals may only be broken at federally licensed slaughter establishments.

For copies of the entire text of the proposed amendments, contact: Dr. Ronald B. Wilson, State Veterinarian, Department of Agriculture, P. O. Box 40627, Nashville, Tennessee, 37204, 615-837-5120.

Ronald B. Wilson, D.V.M.
State Veterinarian
State of Tennessee

EMERGENCY RULES
OF
DEPARTMENT OF AGRICULTURE
DIVISION OF ANIMAL INDUSTRIES

CHAPTER 0080-2-1
HEALTH REQUIREMENTS FOR ADMISSION AND
TRANSPORTATION OF LIVESTOCK AND POULTRY

AMENDMENTS

Rule 0080-2-1-.07 Swine is amended by adding the following new subparagraph (e) to paragraph (1) so that as amended the subparagraph shall read:

PROPOSED RULES

TENNESSEE STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS - 0660

CHAPTER 0660-4 REPORTS

Presented herein are proposed amendments of Tennessee State Board of Funeral Directors and Embalmers submitted pursuant to *T.C.A. §4-5-202* in lieu of a rulemaking hearing. It is the intent of the Board of Funeral Directors and Embalmers to promulgate these amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the *Tennessee Administrative Register* in which the proposed amendments are published. Such petition to be effective must be filed in the Legal Division of the Department of Commerce and Insurance, Twenty-fifth Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243 and in the Department of State, Eight Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0310, and must be signed by twenty-five persons who will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the text of these proposed rules, contact: Cecil H. Ross, Staff Attorney, Division of Regulatory Boards, Department of Commerce and Insurance, Twenty-fifth Floor, Snodgrass Tower, 312 Eighth Avenue North, Tenn. 37243; telephone (615) 741-9465.

The text of the proposed rules is as follows:

AMENDMENTS

Rule 0660-4-.03 is amended by numbering the previously unnumbered first paragraph as paragraph (1) and by adding the following language as subsections (2) and (3);

- (2) Upon a change of ownership of any licensed funeral establishment, the new owner(s) shall, in addition to complying with subsection (1) of this rule, appear before the Board within sixty (60) days of the change of ownership in order to request a new license for the establishment; provided that where the ownership of a licensed funeral home changes by reason of the death of the previous owner and the ownership of the establishment is contested in probate proceedings, the new owner(s) need not appear until sixty (60) days after the entry of the order adjudicating such license.
- (3) The Board of Funeral Directors and Embalmers shall have the power to punish violations of this rule by assessing a civil penalty against the new owner(s) in an amount not to exceed on thousand dollars (\$1,000) for each separate violation. Each day a violation continues constitutes a separate violation. In determining the amount of any civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances of the violation;

- (3) The Board of Funeral Directors and Embalmers shall have the power to punish violations of this rule by assessing a civil penalty against the new owner(s) in an amount not to exceed one thousand dollars (\$1,000) for each separate violation. Each day a violation continues constitutes a separate violation. In determining the amount of any civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances of the violation;
 - (c) The seriousness of the violation and the risk of harm to the public;
 - (d) Any economic advantage gained by the violator as a result of non-compliance; and
 - (e) The interest of the public.

so that as amended the rule shall read:

0660-4-.03 CHANGES.

- (1) The Board of Funeral Directors and Embalmers shall be notified in writing within ten days of the effective date of any change in:
 - (a) the location, address, or number of separate places of business operated by the holder of a funeral director's license;
 - (b) the identity of the licensed funeral director in charge of a place of business; and
 - (c) the address of the holder of any license issued by the Board.
- (2) Upon a change of ownership in any licensed funeral establishment, the new owner(s) shall, in addition of complying with subsection (1) of this rule, appear before the Board within sixty (60) days of the change of ownership to request a new license for the establishment; provided that where the ownership of a licensed funeral establishment changes by reason of the death of the previous owner and the ownership of the establishment is contested in probate proceedings, the new owner(s) need not appear until sixty (60) days after the entry of the order adjudicating such issue.
- (3) The Board of Funeral Directors and Embalmers shall have the power to punish violations of this rule by assessing a civil penalty against the new owner(s) in an amount not to exceed one thousand dollars (\$1,000) for each separate violation. Each day a violation continues constitutes a separate violation. In determining the amount of any civil penalty to be assessed pursuant to the rule, the Board may consider such factors as the following:
 - (a) Whether the amount imposed will be substantial deterrent to the violator;
 - (b) The circumstances of the violation;
 - (c) The seriousness of the violation and the risk of harm to the public;
 - (d) Any economic advantage gained by the violator as a result of non-compliance; and

- (e) The interest of the public.

Authority: *T.C.A. 62-5-203 and 56-1-308.*

The proposed rules set out herein were properly filed in the Department of State on the 12th day of May, 2000, and pursuant to the instruction set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of September, 2000. (05-01)

**DEPARTMENT OF HEALTH - 1200
BUREAU OF HEALTH SERVICES**

**CHAPTER 1200-11-2
HEMOPHILIA PROGRAM**

Presented herein are proposed rules of the Hemophilia Program, Department of Health submitted pursuant to *T.C.A. 4-5-202* in lieu of a rulemaking hearing. It is the intent of the Hemophilia Program, Department of Health to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the *Tennessee Administrative Register* in which the proposed rules are published. Such petition to be effective must be filed with the Department of Health, 6th floor, Cordell Hull Building, Nashville TN 37247 and in the Department of State, Eight Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0310, and must be signed by twenty-five (25) persons who will be affected by the rules, or submitted by a municipality which will be affected by the rules, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed rules, contact: Carole Sumner, State Hemophilia Program (SHP), Department of Health, 6th floor, Cordell Hull Building, Nashville TN 37247 or call (615) 532-2257.

NEW RULES

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1200-11-2-.01	Statement of Purpose	1200-11-2-.05	Authorization and Reimbursement for Services
1200-11-2-.02	Definitions	1200-11-2-.06	Removal from Program
1200-11-2-.03	Eligibility Requirements	1200-11-2-.07	Appeal Process
1200-11-2-.04	Covered Services		

1200-11-2-.01 STATEMENT OF PURPOSE

The Hemophilia Program provides assistance to individuals suffering from hemophilia and other genetic bleeding disorders. Through the provision of financial assistance, the program improves access to care and the quality of life for individuals who require continuing suitable treatments in order to avoid the crippling, extensive side effects associated with their bleeding disorders.

Authority: T.C.A. §§4-5-202, 68-41-102, and 68-41-104

1200-11-2-.02 DEFINITIONS. Unless specifically indicated by the context, for the purpose of these rules and regulations, the terms used herein are defined as follows:

- (1) Commissioner - The Commissioner of the Tennessee Department of Health or the Commissioner's designee.
- (2) Department - The Tennessee Department of Health.
- (3) Family - For the purpose of the Hemophilia Program, a family is defined as follows:
 - (a) two or more persons related by birth, marriage, or adoption who reside together. (If a household includes more than one family, the guidelines are applied separately to each family);
 - (b) a person 18 years of age or older who is not living with any relatives;
 - (c) a child under 18 years of age and his/her non-parent custodians when financial responsibility has been assigned to them by the court; or
 - (d) parents of a patient under 18 years of age when the patient has been voluntarily placed outside the parent's home.
- (4) Hemophilia - Any genetically determined bleeding disorder.
- (5) Resident of Tennessee - A person who has established a bona fide residence in Tennessee. The test for such residence is (1) an intention to stay indefinitely in a place joined with (2) some objective indication consistent with that intent, such as a Tennessee drivers' license.

Authority: T.C.A. §§4-5-202, 68-41-102, and 68-41-104

1200-11-2-.03 ELIGIBILITY REQUIREMENTS

- (1) Any individual diagnosed with a genetic bleeding disorder who is a resident of Tennessee is eligible to apply for program services.
- (2) To receive program services, the applicant must meet the following criteria.
 - (a) The applicant must submit a completed, properly signed, and dated application provided by the Department. If the applicant is legally incompetent to consent to medical treatment because of age or mental condition, said application shall be completed and signed by the applicant's parent or legal guardian.
 - (b) The applicant must meet the medical criteria established in these Rules and must meet the financial criteria at the time of application and/or recertification.
- (3) Each applicant's medical diagnosis must be an acceptable diagnosis as established in these Rules. Any medical treatment must directly relate to the diagnosis for which the applicant was accepted as required by these Rules.
- (4) An applicant will be determined diagnostically eligible for the program, if the applicant has been diagnosed with any of the following:

- (a) clotting factor deficiencies - including factors I, II, V, VII, VIII, IX, X, XI, XIII; or
 - (b) other bleeding disorders - including von Willebrand disease, genetic platelet disorders, or other hemorrhagic disorders.
- (5) Individuals will be financially eligible for the Hemophilia Program, if the family's gross income is at or below 300% of the federal poverty level for the number in the family. When a family has more than one (1) individual with a Hemophilia Program eligible condition, one person may be added to the total number of family members for each additional family member with an eligible condition when determining eligibility.

The Department shall determine the family income of the applicant as a family as defined in Rule 1200-11-2-.02(3).

- (a) income shall include:
 - 1. wages, salaries, and/or commissions;
 - 2. income from rental property or equipment;
 - 3. profits from self-employment enterprises, including farms;
 - 4. alimony and/or child support;
 - 5. inheritances;
 - 6. pensions and benefits; and
 - 7. public assistance grants.
 - (b) After the income of the family is determined, any verified medical payments including medical or health insurance premiums made by the family for any family member during the previous twelve (12) months shall be prorated over twelve months and deducted from the gross monthly income.
 - (c) Verified child support or alimony paid to another household shall be deducted from the gross monthly income.
- (6) All applicants to or participants in the Hemophilia Program who have no third party insurance coverage must apply for TennCare coverage and provide proof of acceptance or denial to the Hemophilia Program. Once accepted for TennCare coverage, Hemophilia Program participants must meet all TennCare requirements in order to maintain eligibility for the Hemophilia Program.
- (7) Applicants may be denied participation in the Hemophilia Program, if they are diagnostically ineligible, financially ineligible, or fail to apply for TennCare coverage.
- (8) All participants in the Hemophilia Program must be financially certified annually.
- (9) Once a patient has been certified for services, the certification extends for one year regardless of changes in family income.

Authority: T.C.A. §§4-5-202, 68-41-102, and 68-41-104

1200-11-2-.04 COVERED SERVICES

Services will be provided according to the availability of funds. However, when budget constraints are indicated, the Department may place a cap on enrollment in the program and/or a cap on expenditures per participant.

Covered services may include the following.

- (1) appropriate replacement therapy needed for the prevention and control of bleeding.
- (2) out-patient services related to bleeding disorders as follows:
 - (a) physician's services - primary and specialty;
 - (b) emergency room services;
 - (c) x-ray services;
 - (d) laboratory services;
 - (e) pharmaceuticals - included on the program's formulary;
 - (f) occupational and physical therapy services;
 - (g) orthopedic - appliances and equipment; and
 - (h) other bleed-related services as prescribed.
- (3) in-patient hospitalization for bleeding episodes and complications.
- (4) dental services.
- (5) home health care including nursing services and auxiliary supplies.
- (6) case management services.
- (7) medical insurance premiums for eligible program participants including TennCare premiums, Medicare buy-in for Part B coverage, and premiums for conversion coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986.
- (8) diagnostic evaluations needed by program non-participants to determine their eligibility for the program.
- (9) support of the Comprehensive Hemophilia Clinics.

Authority: T.C.A. §§4-5-202, 68-41-102, and 68-41-104

1200-11-2-.05 AUTHORIZATION AND REIMBURSEMENT FOR SERVICES

- (1) In-patient hospitalization must be prior approved when the Hemophilia Program is the primary payor.

- (2) No payment shall be made for services rendered to any participant who is receiving services under these Rules unless and until all third party payment sources available have been exhausted.
- (3) Dental services must have prior authorization and will be reimbursed based on the Schedule of Allowances of United Concordia Companies, Inc. (Blue Cross/Blue Shield of Pennsylvania).
- (4) With the exception of emergency services, all services provided under these Rules must be obtained within the State.

Authority: T.C.A. §§4-5-202, 68-41-102, and 68-41-104

1200-11-2-.06 REMOVAL FROM PROGRAM

Participants may be removed from the program when they

- (1) move out of state,
- (2) cannot be located,
- (3) become financially ineligible,
- (4) fail to apply for TennCare or adhere to TennCare requirements,
- (5) become incarcerated, or
- (6) fail to abide by the articles set out in the above Rules.

Authority: T.C.A. §§4-5-202, 68-41-102, and 68-41-104

1200-11-2-.07 APPEAL PROCESS

Applicants who are denied participation in the Hemophilia Program or participants who are removed from the program in accordance with 1200-11-2-.06 may appeal the decision in writing to the program within ten (10) calendar days of receipt of the program's written notice of denial or removal. If the denial is upheld, the individual may appeal the decision in writing to the Commissioner within ten (10) calendar days of receipt of the written notice that the initial appeal has been denied. The decision of the Commissioner shall be final.

Authority: T.C.A. §§4-5-202, 68-41-102, and 68-41-104

REPEALS

Chapter 1200-11-2 is repealed in its entirety.

The proposed rules set out herein were properly filed in the Department of State on the 15th day of May, 2000, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of September, 2000. (05-10)

DEPARTMENT OF SAFETY - 1340
STAFF SERVICES DIVISION
SAFETY EDUCATION

CHAPTER 1340-1-11
MOTORCYCLE RIDER EDUCATION PROGRAM

Presented herein are proposed amendments of the Department of Safety submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Staff Services Safety Education Division, Department of Safety to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Department of Safety Legal Division, 1150 Foster Avenue, Nashville, Tennessee 37249-1000, and in the Department of State, Eight Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0310, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these proposed amendments, contact: Roger Hutto, General Counsel, Tennessee Department of Safety Legal Division, 1150 Foster Avenue, Nashville, TN 37249, 615-251-5255.

The text of the proposed amendments is as follows:

AMENDMENTS

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Rule 1340-1-11-.02 Definitions is amended by adding the following new paragraph (14) so that as added the paragraph shall read:

1340-1-11-.02 DEFINITIONS

- (14) Examiner Instructor. An instructor who teaches a minimum of five (5) Motorcycle Rider Courses: Riding and Street Skills (MRC:RSS) courses each calendar year and who meets the evaluation criteria established by the Program Coordinator for issuing student Certificates of Completion.

Authority: T.C.A. §§55-51-101, 55-51-102, 55-51-103 and 55-51-105.

Paragraph (7) of rule 1340-1-11-.03 Rider Training Course is amended by adding the following subparagraph (a) so that as amended the subparagraph shall read:

- (a) An experienced instructor may teach, alone, a maximum of eight (8) students on the driving range. An experienced instructor is defined as a certified instructor who has taught, as primary instructor, a minimum of five (5) MRC:RSS rider courses prior to teaching alone.

Authority: T.C.A. §§55-51-102, 55-51-103.

Rule 1340-1-11-.03 Rider Training Course Paragraph (9) is amended by deleting the current language in its entirety and substituting the following language so that as amended the rule shall read:

- (9) Students under the age of fifteen (15) shall be limited to the use of motor-driven cycles with an engine displacement not to exceed one hundred twenty-five cubic centimeters (125 cc), unless prior approval is given by the Program Coordinator.

Authority: T.C.A. §§55-51-102, 55-51-103.

Subparagraph (d) of paragraph (12) of rule 1340-1-11-.03 Rider Training Course is amended by deleting the current language in its entirety and substituting the following language so that as amended the subparagraph shall read:

- (d) Over-the-ankle footwear.
 1. Boots or shoes shall be high enough to cover the anklebone and provide sturdy support and protection from burns and abrasion.
 2. Footwear shall have low heels (if any) and have a high traction sole.

Authority: T.C.A. §§ 55-51-102, 55-51-103.

Rule 1340-1-11-. 04 Instructor Qualifications is amended by deleting the current language in its entirety and substituting the following language so that as amended the rule shall read:

1340-1-11-.04 INSTRUCTOR QUALIFICATIONS

- (1) The instructor must meet the qualifications set out in T.C.A. § 55-51-103.
- (2) The instructor must have a high school diploma or its equivalent.
- (3) The instructor must be at least eighteen (18) years of age.
- (4) The instructor must hold a valid Tennessee motorcycle driver license (Class M) or motorcycle endorsement.
- (5) The instructor must have at least two (2) years of recent motorcycle road-riding experience, encompassing strategies for dealing with street traffic and advanced turning and braking skills.
- (6) The instructor driver license must not have been suspended, cancelled, or revoked at any time during the preceding two (2) years.
- (7) The instructor must not have any convictions for driving under the influence of alcohol or drugs or violation of the implied consent law during the preceding five (5) years.
- (8) The instructor must not have a felony conviction of any type or any misdemeanor conviction for any crime involving fraud, deceit, or misrepresentation.
- (9) The instructor must have completed the basic rider training course (MRC:RSS) at an M.R.E.P. approved site within twelve (12) months prior to beginning an Instructor Preparation (I.P.) workshop.
- (10) The instructor shall demonstrate a knowledge of the course material, knowledge of safe motorcycle operating practices and the necessary aptitude for instructing students.

- (11) When certified, the instructor must have an instructor certificate that has been issued by the department.
- (12) The instructor shall maintain and utilize the M.R.E.P. uniform (shirt and cap) during course instruction and whenever representing the M.R.E.P.
- (13) The instructor must be registered as a current active instructor by the Motorcycle Safety Foundation (MSF).
- (14) The instructor shall teach a minimum of one M.R.E.P. approved course each calendar year.

Authority: T.C.A. § 55-51-103.

Paragraph (1) of rule 1340-1-11-. 07 Course Site Requirements is amended by deleting the current language in its entirety and submitting the following language so that as amended the paragraph shall read:

- (1) The rider training course riding range shall meet or exceed standards set forth by the department based upon the most recent edition of the Motorcycle Safety Foundation Rider Course Instructor Guide Section III.

Authority: T.C.A. §§55-51-102, 55-51-103

Subparagraph (a) of paragraph (1) of rule 1340-1-11-.07 Course Site Requirement is amended by deleting the current language in its entirety and submitting the following language so that as amended the subparagraph shall read:

- (a) Be within a reasonable distance of the classroom and storage area, so as not to interfere with the training schedule.

Authority: T.C.A. §§ 55-51-102, 55-51-103.

Subparagraph (e) of paragraph (2) of rule 1340-1-11-.07 Course Site Requirements is amended by deleting the current language in its entirety and substituting the following language so that as amended the subparagraph shall read:

- (d) Be within a reasonable distance of the range and storage area, so as not to interfere with the training schedule.

Authority: T.C.A. §§ 55-51-102, 55-51-103.

Subparagraph (d) of paragraph (3) of rule 1340-1-11-.07 Course Site Requirements is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

- (d) Be within one hundred-fifty (150) yards of the riding range.

Authority: T.C.A. §§ 55-51-102, 55-51-103.

Rule 1340-1-11-. 09 Tuition Fees is amended by deleting the current language in its entirety and substituting the following language so that as amended the rule shall read:

1340-1-11-.09 TUITION FEES

- (1) A sponsor may charge reasonable fees to cover the costs of conducting a rider-training program. The total fees charged shall not exceed one hundred-fifty dollars (\$150.00) per student, per basic rider training course, and seventy-five dollars (\$75.00) per participant, per experienced rider training course.
 - (a) Each sponsor shall, by July 1 of each year, submit to the Program Coordinator, in writing, his or her training fees.
- (2) The department shall enter into a direct grant authority with each new sponsor approved by the department in order to subsidize the start-up costs incurred in establishing a local rider-training program.
 - (a) The amount of the start-up subsidy per new sponsor shall be established annually by the department.
 - (b) The maximum number of subsidy grants issued shall not exceed one (1) per new sponsor and the maximum number of state-wide subsidy grants shall be established annually by the department.
 - (c) The subsidy grant shall be used exclusively for defraying the start-up costs associated with equipment, training curriculum materials, facility rental, required liability insurance coverage, and other costs as determined by the Program Coordinator.

Authority: T.C.A. §§ 55-51-102, 55-51-104.

Rule 1340-1-11-. 12 Certificate of Completion for Students is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

1340-1-11-.12 CERTIFICATE OF COMPLETION FOR STUDENTS

- (1) Upon successful completion of a State certified Motorcycle Rider Education Course, each individual will be given a certificate showing that he or she has successfully completed said course.
- (2) Individuals who have successfully completed a State certified Motorcycle Rider Education Course shall be exempt from taking the written motorcycle knowledge test and the ability skills test at the Driver License Examining Stations. These individuals shall be required only to take the visual examination for a motorcycle driver license-restricted (Class M-Restricted), a motorcycle learner permit (Class P-M), or a motorcycle driver license (Class M), which ever applies.
- (3) Individuals who are fourteen (14) or fifteen (15) years of age and elect not to participate in a state certified Motorcycle Rider Education Course, must pass the written, visual and ability skills tests at a Tennessee Driver License Examination Station prior to receiving a restricted motorcycle license (Class M-Restricted), or a motorcycle learner permit (Class P-M), respectively.
- (4) Individuals who have previously successfully completed the written, visual and ability skills tests, or who hold a certificate from a state certified Motorcycle Rider Education Course, must, at the age of sixteen (16), return to a Tennessee Driver License Examination Station and upgrade their restricted license or permit to a regular motorcycle driver license (Class M) to retain the privilege of operating a motorcycle.

Authority: *T.C.A. §§55-51-102, 55-51-107.*

The proposed rules set out herein were properly filed in the Department of State on the 31st day of May, 2000, and pursuant to the instructions set out above, and in the absence of the filing of an petition calling for a rulemaking hearing, will become effective on the 28th day of September, 2000. (05-47)

**DEPARTMENT OF STATE - 1360
DIVISION OF BUSINESS SERVICES**

**CHAPTER 1360-7-1
TRADEMARKS**

Presented herein are proposed rules of the Department of State submitted pursuant to *T.C.A. §4-5-202* in lieu of a rulemaking hearing. It is the intent of the department to promulgate this rule without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the *Tennessee Administrative Register* in which the proposed rule is published. Such petition to be effective must be filed on the 6th Floor of the William R. Snodgrass Tower located at 312 Eighth Avenue North, Nashville, TN 37243 and in the Department of State, 8th Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact Bob Grunow, Director of Business Services, Department of State, 6th Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, TN 37243, and (615)-741-0584.

The text of the proposed rules is as follows:

NEW RULES

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1360-7-1-.01 Classification of Goods and Services	1360-7-1-.02 Fees
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1360-7-1-.01 CLASSIFICATION OF GOODS AND SERVICES. New trademark and service mark registrations shall be classified in accordance with the International Schedule of Classes of Goods & Services as adopted by the United States Patent and Trademark Office and found at Title 37, Code of Federal Regulations, Part 6.1 (37 CFR 6.1). Provided, however, new trademark and service mark registrations filed prior to January 1, 2001, may be classified either in accordance with the International Schedule of Classes of Goods & Services, *supra*, or in accordance with the classifications found at 1982 Tenn. Pub. Acts, ch. 698, §10.

Authority: *T.C.A. §47-25-510.*

1360-7-1-.02 FEES. The following nonrefundable fees shall be collected by the Secretary of State for the various mark applications and recording fees and for related services:

Application for mark registration, per classification submitted	\$20
Application for mark renewal, per classification renewed	\$20
Assignment of mark, per registered classification	\$20
Any other document permitted to be filed in regard to a mark, per registered classification	\$20
Information listing search for mark, per search	\$20
Copies of mark documents on file, per page copied	\$1
Certification fee, per certification	\$2

Authority: T.C.A. §47-25-517.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of May, 2000, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of September, 2000. (05-48)

**DEPARTMENT OF TREASURY - 1700
BANK COLLATERAL POOL BOARD**

**CHAPTER 1700-4-1
BANK COLLATERAL POOL**

Presented herein are proposed amendments of the Collateral Pool Board submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Board to promulgate these amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in the Treasury Department, Division of Cash Management located on the 11th Floor of the Andrew Jackson State Office Building located at Fifth and Deaderick, Nashville, Tennessee 37243, and in the Department of State, Fifth Floor, James K. Polk State Office Building, Sixth and Deaderick, Nashville, Tennessee 37243-0310, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these proposed amendments, contact: Mary Krause, General Counsel, Tennessee Treasury Department; 10th Floor, Andrew Jackson State Office Building; Nashville, Tennessee 37243-0230; (615) 741-7063.

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 1700-4-1-.04 Determination of Collateral Pledge Level is amended by deleting subparagraph (1)(b) thereof in its entirety and by substituting instead the following:

- (b) If the qualified public depositories hold an aggregate of thirty percent (30%) or more of the total sum of deposits held in the State of Tennessee by banks and savings institutions, the collateral pledging level shall equal one hundred fifteen percent (115%), except as provided in parts 1 through 3 of this subparagraph below:
 - 1. The collateral pledging level shall equal one hundred percent (100%) for any qualified public depository which has a rating equal to or greater than twenty-five (25) as determined from the most recent quarterly report published by Sheshunoff Information Services, Inc. (Organization rating), and meets the benchmark levels established pursuant to part 4 of this subparagraph below for at least seven (7) of the nine (9) ratios set forth in rule 1700-4-1-.03(2)(c);
 - 2. The collateral pledging level for a qualified public depository shall equal ninety percent (90%) if: (i) the long-term debt of both the qualified public depository and the depository's holding company (if any) are included in the three (3) highest ratings given by Moody's Investors Service, Inc. or by Standard and Poor's Corporation (excluding any modifiers); (ii) the qualified public depository meets the benchmark levels established pursuant to part 4 of this subparagraph below for all four (4) of the Capital Adequacy Ratios set forth in rule 1700-4-1-.03(2)(c)1; and (iii) the qualified public depository does not fail during any two (2) consecutive quarters the benchmark levels established pursuant to part 4 of this subparagraph below for any two (2) of the non-Capital Adequacy Ratios set forth in rules 1700-4-1-.03(2)(c)2 through 1700-4-1-.03(2)(c)4.
 - (i) If a long-term debt rating does not exist for both the qualified public depository and the depository's holding company, the qualified public depository may nevertheless have a collateral pledging level equal to ninety percent (90%) provided the rating which is in existence meets the requirements in subpart 2(i) of this subparagraph above and provided the qualified public depository meets the other requirements contained in subparts 2(ii) and 2(iii) above.
 - (ii) If a long-term debt rating has been given by both Moody's Investors Service, Inc. and by Standard and Poor's Corporation to either the qualified public depository or to the depository's holding company, then both ratings must be included in the three (3) highest grades (excluding any modifiers) in order for the qualified public depository to meet the requirements in subpart 2(i) of this subparagraph above.
 - 3. The collateral pledging level for a qualified public depository shall equal ninety percent (90%) if: (i) a long-term debt rating does not exist for either the qualified public depository or the depository's holding company and the qualified public depository has a rating equal to or greater than forty (40) as determined from the most recent quarterly report published by Sheshunoff Information Services, Inc. (Organization rating); (ii) the qualified public depository meets the benchmark levels established pursuant to part 4 of this subparagraph below for all four (4) of the Capital Adequacy Ratios set forth in rule 1700-4-1-.03(2)(c)1; and (iii) the qualified public depository does not fail during any two (2) consecutive quarters the benchmark levels established pursuant to part 4 of this subparagraph below for any two (2) of the non-Capital Adequacy Ratios set forth in rules 1700-4-1-.03(2)(c)2 through 1700-4-1-.03(2)(c)4.

4. The Board shall determine from time to time the benchmark levels referred to in parts 1 through 3 of this subparagraph above. Such benchmarks may differ from the benchmark levels established by the Board for evaluating collateral pool admission pursuant to rule 1700-4-1-.03(2)(c). The financial information necessary in determining whether the benchmark levels have been met by a qualified public depository for a given quarter shall be taken from the quarterly report submitted pursuant to rule 1700-4-1-.07(2).

Authority: *T.C.A. §§9-4-504 and 9-4-508.*

The proposed amendments set out herein were properly filed in the Department of State on the 31st day of May, 2000, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of September, 2000. (05-35)

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RULEMAKING HEARINGS

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of amendments to rules pursuant to *T.C.A. §§ 4-5-202, 4-5-204, and 63-4-106*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 2nd day of August, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0260-2-.04, Qualifications for Licensure, is amended by deleting part (1) (b) 1., part (1) (b) 2. and paragraph (2) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (1) (d) in its entirety, so that as amended, the new part (1) (b) 1., part (1) (b) 2. and paragraph (2) shall read:

- (1) (b) 1. Provide proof of attendance at a chiropractic college for four (4) school years of not less than nine (9) months each and graduation from a chiropractic college having status with the Commission on Accreditation of the Council on Chiropractic Education, or graduation from an international chiropractic college approved by the Board.
- (1) (b) 2. Submit proof of additional parachiropractic education as follows:
 - (i) For applicants matriculating in a chiropractic college prior to year 2000, the applicant must provide a transcript of grades showing a minimum of two (2) full academic years of college or university work of at least sixty (60) semester hours or its equivalent from an accredited institution.
 - (ii) For applicants matriculating in a chiropractic college in year 2000 and beyond, proof that a bachelor's level education or its equivalent has been obtained from an accredited college or university.

- (2) To qualify for licensure by criteria (reciprocity), a chiropractic physician must:
- (a) Provide evidence that he/she is well regarded in moral character and professional ethics (rule 0260-2-.05 (1)(g)).
 - (b) Possess a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years.
 - (c) Provide documentation from the state or other jurisdiction of prior practice attesting to the length of time in practice, along with any disciplinary action taken against the license while in practice.
 - (d) Provide proof of successful completion of the Special Purposes Examination for Chiropractors (SPEC) as administered by the National Board or its successor.
 - (e) Complete the educational requirements in subparagraph (1) (b) of this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-108, 63-4-109, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts of 2000.

Rule 0260-2-.05, Procedures for Licensure, is amended by deleting subparagraphs (1) (c), (1) (h), (2) (g) and (2) (k) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (2) (m) in its entirety, so that as amended the new subparagraphs (1) (c), (1) (h), (2) (g) and (2) (k) shall read:

- (1) (c) Applications will be accepted throughout the year, and applicants shall be scheduled to take the examinations required in Rule 0260-2-.08.
- (1) (h) An applicant shall request that his/her National Board scores be submitted directly to the Board's administrative office from the testing agency.
- (2) (g) If an applicant holds or has ever held a license to practice as a chiropractic physician in another state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of endorsement (verification of license) from the licensing board which indicates the applicant holds or held an active license and whether it is in good standing presently or was at the time it became inactive. The applicant must be licensed in at least one (1) other state for a period of two (2) full years.
- (2) (k) An individual who possesses a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years will not be required to have passed the National Board Examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-108, 63-4-109, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts of 2000.

Rule 0260-2-.06, Fees, is amended by deleting subparagraphs (1) (e), (1) (g), and paragraph (4) in their entirety and substituting instead the following language, so that as amended the new subparagraphs (1) (e), and (1) (g) and the new paragraph (4) shall read:

- (1) (e) Replacement License or Certificate fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" license or renewal certificate.

- (1) (g) Externship Certificate fee - To be paid by all individuals at the time of application who are requesting to be issued an externship certificate.

(4) Fee Schedule:	Amount
(a) Application	\$300.00
(b) Late Renewal	100.00
(c) Renewal (biennial)	225.00
(d) Replacement License or Certificate	25.00
(e) Criteria (Reciprocity)	300.00
(f) Externship Certificate	100.00
(g) State Regulatory (biennial)	10.00

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-111, 63-4-112, 63-4-120, and Public Chapter 618 of the Public Acts of 2000.

Rule 0260-2-.06, Fees, is amended by deleting subparagraph (1) (b) in its entirety, and renumbering the remaining subparagraphs accordingly.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts of 2000.

Rule 0260-2-.07, Application Review, Approval, Denial, Interviews, is amended by deleting paragraphs (3) and (4) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (8) in its entirety and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (3) and (4) shall read:

- (3) If an application is incomplete when received in the board’s administrative office, the applicant will be notified of the deficiency. The requested information must be received in the board’s administrative office within (60) days of the request.
- (4) If the requested information is not received within (60) days of the request, the application file shall become inactive and the applicant notified. No further board action will take place until the application is completed pursuant to the rules governing the application process.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-109, and Public Chapter 618 of the Public Acts of 2000.

Rule 0260-2-.08, Examinations, is amended by deleting paragraphs (1), (2), (3), (4), and (5) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (1) and (2) shall read:

- (1) The examination of applicants for a license to practice chiropractic will consist of the National Board Examination as directed by the Board. Each applicant must successfully pass all examinations before receiving a license to practice chiropractic unless this requirement is specifically waived pursuant to T.C.A. § 63-4-111.

- (2) A score of 375 on each part of the National Board of Chiropractic Examiners' Examinations and Physiotherapy shall be the minimum passing score for each applicant.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts of 2000.

Rule 0260-2-.12, Continuing Education, is amended by adding the following language as new subparagraphs (1) (a) and (1) (b):

- (1) (a) No prior approval is required for continuing education courses conducted by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or the Tennessee Chiropractic Society.
- (1) (b) Prior approval is required for all course providers not mentioned in subparagraph (1) (a) of this rule, and may be obtained by submitting the following information to the board's administrative office at least thirty (30) days prior to the scheduled date of the course:
1. A course description or outline; and
 2. Names of all lecturers; and
 3. Brief résumé of all lecturers; and
 4. Number of hours of educational credit requested; and
 5. Date of course; and
 6. Copies of materials to be utilized in the course; and
 7. How verification of attendance is to be documented.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-112, and Public Chapter 618 of the Public Acts of 2000.

Rule 0260-2-.14, Temporary License, amended by deleting the catchline and paragraphs (1), (2), and (3) in their entirety, and substituting the following catchline and language, so that as amended, the new catchline and rule 0260-2-.14 shall read:

0260-2-.14 EXTERNSHIP CERTIFICATE.

- (1) Externship Certificate Application - An application for an externship certificate will be considered only after an individual has filed an application for licensure and the file is complete and the applicant has been accepted for the next scheduled examination. The externship certificate fee shall accompany the application for an externship certificate.
- (a) The applicant for an externship certificate and the chiropractic/supervisor shall complete and sign their portion of the form which shall include the supervisor's license number, the name of the clinic/office, address and phone number where the extern will be practicing.
- (b) The chiropractic/supervisor and applicant for an externship certificate must be interviewed by a board member, and by affixing their signatures affirm and attest that they will each hold responsibility to the other and the rules and regulations governing the practice of chiropractic in Tennessee.

- (c) It will be the responsibility of the chiropractic/supervisor to mail the application and fee to the interviewing board member for his/her signature if the interview is conducted by telephone. Notwithstanding, the interviewing board member, after completion, will submit the application for registration to the board's Unit Director.
- (2) Conditions for Practicing Under an Externship Certificate.
- (a) An extern must have approval from the chiropractic/supervisor of the findings/diagnosis and case management plan of all patients assigned for examination and care before commencing treatment. With this approval, an extern will be allowed to perform all diagnostic tests and therapeutic interventions as provided in T.C.A. § 63-4-101.
 - (b) Collection of fees for services and filing claims to third-party-payers must be in the name of the chiropractic/ supervisor (attending physician).
 - (c) Externship is to last no longer than three hundred sixty-five (365) days from the date of certificate issuance. Applicants who provide proof of illness or hardship that hindered their ability to complete exam requirements as provided in Rule .08 of this chapter may, at the board's discretion, be allowed a second year of externship upon payment of a second externship certificate fee.
 - (d) If the extern fails to meet qualifications for a permanent license within the time period provided in subparagraph (2) (c) the Board's Unit Director will issue a letter to be sent by certified mail, return receipt requested, to the chiropractic/supervisor and extern which will serve as notification that the externship certificate becomes invalid and expired and must be returned within fourteen (14) days to the Board's administrative office. The extern must cease to practice upon receiving this notification.
 - (e) In the event of a vacation or a prolonged illness the chiropractic/supervisor must make arrangements for continued supervision by a licensed chiropractic physician and submit a letter from the new chiropractic/ supervisor, addressed to the previous supervisor, stating that he/she will take the responsibility as previously outlined for the supervision and forward a copy of said letter to Board's administrative office.
 - (f) When the externship certificate becomes invalid for any reason or expires, it must be returned to the Board office within fourteen (14) days. The supervisor shall be responsible for monitoring this requirement, and the Board will notify the supervisor when the externship certificate become invalid.
- (3) Supervision – For purposes of this rule, supervision is defined as the direct oversight of the extern by a Tennessee licensed chiropractic physician. The chiropractic/supervisor must be available for approval of examination findings/diagnosis and management plan, including subsequent changes that may alter the management/treating program. The chiropractic/supervisor must conduct and evaluate case studies with the extern on each visit of interactive reassessment throughout the management/treating program of each patient. The supervisor shall be on the facility premises while the extern is conducting patient care.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-103, 63-4-106, and Public Chapter 618 of the Public Acts of 2000.

Subparagraph (1) (a) of Rule 0260-2-.19, Board Members, Officers, Consultants, Records, and Declaratory Orders is amended by changing from the term “four years” to the term “five (5) years”.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-102, 63-4-106, and Public Chapter 618 of the Public Acts of 2000.

The notice of rulemaking set out herein was properly filed in the Department of State on the 18th day of May. (05-15)

DEPARTMENT OF COMMERCE AND INSURANCE - 0780
DIVISION OF REGULATORY BOARDS
TENNESSEE PRIVATE PROTECTIVE SERVICES

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of rules and amendments to rules pursuant to *T.C.A. §62-35-129(b)*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *T.C.A. §4-5-204*, and will take place in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 9:00 a.m. on the 26th day of July, 2000.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Department to determine how the Department can reasonably provide such aid or service. Initial contact may be made with Verna Norris, ADA Coordinator, Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243, telephone (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Donna Hancock, Administrative Director, Private Protective Services, 500 James Robertson Parkway, Second Floor, Nashville, Tennessee 37243, telephone (615) 741-6382.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0780-5-2
PRIVATE PROTECTIVE SERVICES
AMENDMENTS

Rule 0780-5-2-.05 Fingerprinting is amended by deleting the text of paragraph (1) in its entirety and substituting the following language so that, as amended, paragraph (1) shall read:

- (1) All sets of classifiable fingerprints required by the Act or this chapter shall be furnished at the expense of the applicant and shall be rolled by a qualified person acceptable to the Commissioner or the Commissioner's designee.

Authority: *T.C.A. §§62-35-129(b), 62-35-105(a)(4)(E), and 62-35-116(a)(7).*

Rule 0780-5-2-.08 Applicants for Registration Cards is amended by adding the following as a new subparagraph (1)(f) so that, as amended, subparagraph (1)(f) shall read:

- (f) Once an application for either an armed or unarmed security guard has been denied based on a criminal record, the security guard must immediately cease and desist all security guard activities and may not reapply for a security guard registration, either armed or unarmed, for six (6) months from the date of the registration denial.

Authority: *T.C.A. §§62-35-103(b), 62-35-129(b), 62-35-116, 62-35-119(b).*

Rule 0780-5-2-.10 Certificates of Completion of Training is amended by deleting the text of paragraph (3) in its entirety and substituting the following language, so that, as amended, paragraph (3) shall read:

- (3) No applicant will receive credit for training which is completed earlier than one (1) year prior to the date of application.

Authority: T.C.A. §§62-35-129(b) and 62-35-118(c).

Rule 0780-5-2-.12 Training Records is amended by adding the following as a new paragraph (3) so that, as amended, paragraph (3) shall read:

- (3) All training forms must contain the original signature of the certified trainer. Photocopied and/or ink stamped signatures will not be accepted by the Department of Commerce and Insurance.

Authority: T.C.A. §§62-35-129(b) and 62-35-118.

Rule 0780-5-2-.13 Monitoring of Training Programs is amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

As a condition of licensure, a certified trainer agrees to periodic monitoring of his/her training program by the Commissioner of Commerce and Insurance or the Commissioner's designee for the purpose of evaluating the program content, instructor performance, or any other relevant aspect of the administration and conduct of such training program. The certified trainer shall provide the Department with training program dates, times, and locations upon the request of the Department.

Authority: T.C.A. §62-35-129(b).

Rule 0780-5-2-.15 Authorized Weapons is amended by deleting the text of paragraph (1) in its entirety and substituting the following language so that, as amended, paragraph (1) shall read:

- (1) Firearms- The holder of a valid security guard/officer registration card may carry a firearm in the performance of duties only if:
 - (a) The security guard has qualified pursuant to T.C.A. '62-35-118(b)(2) in the use of such firearm. The security guard must be qualified by a certified trainer for each firearm used in the security guard's employment;
 - (b) The firearm is a standard .38, .32, or .357 caliber revolver, 9mm, 10mm, .40 S&W, or .45 ACP semiautomatic pistol, standard 12 gauge shotgun, or other firearm approved by the Commissioner; and
 - (c) The firearm is carried pursuant to a written directive issued in accordance with T.C.A. '39-6-1702 and 62-35-131 by the appropriate law enforcement official in the county where the security guard's duties are performed. The security guard shall not work unless he/she is in possession of a valid written directive. A handgun carry permit issued by the Department of Safety is not acceptable to fulfill this requirement.

Authority: T.C.A. §§62-35-129(b), 62-35-125 and 62-35-134(c)(4).

Rule 0780-5-2-.22 Exemptions is amended by deleting the text of the rule in its entirety. This rule shall be reserved.

Authority: T.C.A. §62-35-129(b).

Rule 0780-5-2-.23 Fees is amended by deleting the text of the rule in its entirety and substituting the following, so that, as amended, the rule shall read:

(1) Contract Security Company:

- (a) An application for a contract security company shall be accompanied by a nonrefundable, nonproratable application fee of three hundred dollars (\$300.00) plus any fingerprint processing fees set by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.
- (b) The Commissioner shall issue a contract security company certification in a form prescribed by the Commissioner upon successful completion of all licensing requirements and upon receipt of a nonrefundable, nonproratable certification fee in accordance with the following schedule:

Number of security guards employed by the company: Amount of fee:

1 - 49	\$125.00
50+	\$425.00

- (c) The fee for the timely renewal of a contract security company certification is:

Number of security guards employed by the company: Amount of fee:

1 - 49	\$300.00
50+	\$600.00

“Timely renewal” means all documents and fees required for renewal have been received by the Department of Commerce and Insurance prior to the expiration date of the company certification.

- (d) The penalty for the late renewal of a contract security company certification shall be in the amount of one hundred dollars (\$100.00) for each month which elapses during the three (3) month late renewal period. The penalty for late renewal is nonrefundable and cannot be prorated for portions of any month. Any company which does not submit complete renewal documentation and fees within three (3) months of the company certification expiration must reapply.

(2) Certified Trainer:

- (a) An application for a certified trainer’s license shall be accompanied by a nonrefundable, nonproratable application fee in the amount of one hundred dollars (\$100.00) plus any fingerprint processing fees set by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.
- (b) The Commissioner shall issue a certified trainer’s license in a form prescribed by the Commissioner upon successful completion of all licensing requirements and upon receipt of a nonrefundable, nonproratable licensing fee in the amount of fifty dollars (\$50.00).
- (c) The fee for the timely renewal of a trainer certification is one hundred fifty dollars (\$150.00). “Timely renewal” means all documents and fees required for renewal have been received by the Department of Commerce and Insurance prior to the expiration date of the certified trainer’s license.
- (d) The penalty for the late renewal of a certified trainer’s license shall be in the amount of fifty dollars (\$50.00) for each month which elapses during the three (3) month late renewal period. The penalty for late renewal is nonrefundable and cannot be prorated for portions of any month. Any certified trainer who does not submit complete renewal documentation and fees within three (3) months of the certified trainer’s license expiration must reapply.

(3) Security Guard:

(a) Armed Security Guard:

- (i) An application for an armed security guard registration shall be accompanied by a nonrefundable, nonproratable application fee in the amount of seventy-five dollars (\$75.00) plus any fingerprint processing fees set by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.
- (ii) The Commissioner shall issue an armed guard registration in a form prescribed by the Commissioner upon successful completion of the registration requirements and upon receipt of a nonrefundable, nonproratable registration fee in the amount of thirty dollars (\$30.00).
- (iii) The fee for timely renewal of an armed security guard is sixty dollars (\$60.00). ATimely renewal@ means that all documentation and fees required for renewal have been received by the Department of Commerce and Insurance prior to the expiration of the armed security guard registration.
- (iv) The penalty for late renewal of an armed security guard shall be in the amount twenty dollars (\$20.00) for each month which elapses during the three (3) month late renewal period. The penalty is nonrefundable and will not be prorated for portions of a month. Any armed security guard who does not submit all required documentation and fees within three (3) months of the armed security guard expiration must reapply.
- (v) The fee for a conditional armed guard registration is fifteen (\$15.00).

(b) Unarmed Security Guard:

- (i) An application for an unarmed security guard shall be accompanied by a nonrefundable, nonproratable application fee in the amount of fifty dollars (\$50.00) plus any fingerprint processing fees set by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.
- (ii) The Commissioner shall issue an unarmed guard registration in a form prescribed by the Commissioner upon successful completion of the registration requirements and upon receipt of a nonrefundable, nonproratable registration fee in the amount of twenty dollars (\$20.00).
- (iii) The fee for timely renewal of an unarmed security guard is fifty dollars (\$50.00). “Timely renewal” means that all documentation and fees required for renewal have been received by the Department of Commerce and Insurance prior to the expiration of that unarmed security guard registration.
- (iv) The penalty fee for late renewal of either an armed or unarmed security guard shall be in the amount twenty dollars (\$20.00) for each month which elapses during the three (3) month late renewal period. The penalty is nonrefundable and will not be prorated for portions of a month. Any security guard who does not submit all required documentation and fees within three (3) months of the security guard expiration must reapply.

(c) Changing Guard Status:

Applications to downgrade from armed to unarmed status shall be accompanied by a nonrefundable, nonproratable fee of ten dollars (\$10.00). Upgrading from unarmed to armed status requires complete armed guard application and fees.

- (4) The fee for a duplicate certification, license or registration is twenty five dollars (\$25.00).

Authority: *T.C.A. §§62-35-122, 62-35-126, and 62-35-129(b).*

The notice of rulemaking set out herein was properly filed in the Department of State on this 31st day of May. (05-36)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules pursuant to *T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 18th day of July, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0460-4-.02, Registration Process, is amended by deleting paragraph (2), subparagraph (8) (b), part (8) (c) 3. and paragraph (9) in their entirety and substituting instead the following language, so that as amended the new paragraph (2), subparagraph (8) (b), part (8) (c) 3. and paragraph (9) shall read:

- (2) An applicant shall submit:
- (a) proof of having graduated from a high school or submit proof of possession of a general educational development (g.e.d.) certificate; and

- (b) proof of having attained at least eighteen (18) years of age; and
 - (c) a signed “passport” style photograph taken within the preceding twelve (12) months.
- (8) (b) Out-of-State and Foreign Applicants
1. Dental assistants who are registered, licensed, or certified by another state:
 - (i) Documentation of registration, or its equivalent, as a dental assistant in another state as required by Rule 0460-4-.02(7); and
 - (ii) Official transcript from the dental assisting school, evidencing a minimum of one hundred and sixteen (116) clock hours of lecture and didactic training which shall have included a minimum of twenty-four (24) clock hours of radiological instruction;
 2. Dental assistants who are not required to be registered, licensed or certified by another state:
 - (i) Official transcript from a dental assisting school, evidencing a minimum of one hundred and sixteen (116) clock hours of lecture and didactic training in subject areas which are equivalent to or exceeding the requirements of the Board-approved training course and which shall have included a minimum of twenty-four (24) clock hours of radiological instruction; and
 - (ii) Verification of employment as a dental assistant in another state. Verification shall be made by the employing dentist on official letterhead stationery bearing an original signature and shall be submitted by the employing dentist directly to the Board’s administrative office.
 3. Dental assistants or other dental professionals from another province, territory, or country:
 - (i) Official transcript from the dental assisting, dental hygiene, or dental school, evidencing a minimum of one hundred and sixteen (116) clock hours of lecture and didactic training in subject areas which are equivalent to or exceeding the requirements of the Board-approved training course and which shall have included a minimum of twenty-four (24) clock hours of radiological instruction; and
 - (ii) Verification of employment and/or verification of licensure, registration or certification as a dental assistant or dental professional in a province, territory or country. Verification shall be made by the employing dentist on official letterhead stationery bearing an original signature and shall be submitted by the employing dentist directly to the Board’s administrative office; and
 - (iii) The board or agency that issued the license or certificate shall submit verification of licensure, registration or certification.
 - (iv) All documentation shall be translated into English and certified by the translator as an authentic translation of the referenced document.
 4. If the applicant’s file is not complete within ninety (90) days of submitting the application, the application file shall be closed and the applicant notified. No further Board action will take place until a new application is received, including another payment of all fees.
 5. An applicant must become registered in Tennessee within one (1) year of submitting the application and must submit proof of successfully completing all examinations as provided in rule 0460—4—.03 or the

application file shall be closed and the applicant notified. No further Board action will take place until a new application is received, including another payment of all fees and successful completion of a dental assisting program in Tennessee.

- (8) (c) 3. Within ninety (90) days of course completion, the applicant shall file the application and all necessary documentation and fees with the Board's Office, or the application file will be closed. Thereafter, the applicant must file a new application and documentation together with fees. The applicant must apply for and successfully become registered by the Board within one (1) year from course completion, or the educational course must be repeated. Failure to successfully apply within ninety (90) days of course completion, or anytime thereafter, shall in no way extend the original one (1) year from the date of course completion for the applicant to become registered.
- (9) Application review and registration decisions required by this rule shall be governed by rule 0460—1—.04, notwithstanding the ninety (90) day completion periods provided in paragraph (8) of this rule.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, and 63-5-115.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-49)

BOARD OF ELECTROLYSIS EXAMINERS - 0540

There will be a hearing before the Tennessee Board of Electrolysis Examiners to consider the promulgation of amendments to rules pursuant to *T.C.A. §§ 4-5-202, 4-5-204, and 63-26-108*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 17th day of October, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0540-1-.04, Qualifications for Licensure, is amended by deleting subparagraph (2) (d) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (d) shall read:

- (2) (d) Provide an original written statement from the supervising dermatologist that he provided direct supervision during the limited license training, the provisions of T.C.A. 63-26-108 (b) notwithstanding; and

Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-108, and 63-26-111.

Rule 0540-1-.06, Fees, is amended by deleting subparagraphs (1) (d), (1) (h), and (4) (f) in their entirety and substituting the following language, so that as amended, the new subparagraphs (1) (d), (1) (h), and (4) (f) shall read:

- (1) (d) Late Renewal fee - A non-refundable fee to be paid when an individual fails to timely renew a license, and has not been administratively revoked.
- (1) (h) Reinstatement fee - A non-refundable fee to be paid each time an individual requests to reinstate an administratively revoked license.
- (4) (f) Reinstatement 5.00 5.00

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-112, 63-26-108, 63-26-109, and 63-26-120.

Rule 0540-1-.09, Renewal of License, is amended by deleting part (3) (a) 2. in its entirety and substituting instead the following language, so that as amended, the part (3) (a) 2. shall read:

- (3) (a) 2. Payment of the reinstatement fee provided in Rule 0540-1-.06; and

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-26-108, 63-26-109, and 63-26-120.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-45)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF AIR POLLUTION CONTROL

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to *Tennessee Code Annotated, Section 68-201-105*. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-201 et. seq.* and will take place in the 8th Floor Conference Room of the L & C Tower, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 20 th day of July, 2000.

Written comments will be included in the hearing records if received by the close of business July 20, 2000, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (July 20, 2000) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298)

If you have any questions about the origination of this rule change, you may contact Mr. John Patton at 1-800-511-7991. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 8th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUBSTANCE OF PROPOSED RULE

CHAPTER 1200-3-2
DEFINITIONS

AMENDMENT

Subparagraph (ffff) of paragraph (1) of rule 1200-3-2-.01 GENERAL DEFINITIONS is amended by substituting for the present subparagraph (ffff), a new subparagraph (ffff) so that, as amended, the new subparagraph (ffff) shall read:

(ffff) Nonattainment Area means a geographical area held by the Tennessee Air Pollution Control Board to not be achieving an ambient air quality standard for a pollutant.

Authority: *T.C.A. §§68-201-105 and 4-5-201 et. seq.*

This notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-33)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF AIR POLLUTION CONTROL

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of amendments to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to *Tennessee Code Annotated, Section 68-201-105*. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendments. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-201 et. seq.* and will take place in the 8th Floor Conference Room of the L & C Tower, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 20 th day of July, 2000.

Written comments will be included in the hearing records if received by the close of business July 20, 2000, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (July 20, 2000) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298)

If you have any questions about the origination of this rule change, you may contact Mr. Jeff Cales at 931-432-7621. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 8th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1200-3-4
OPEN BURNING

AMENDMENTS

Rule 1200-3-4-.02 Definitions is amended in six (6) respects as follows:

Subparagraph (a) of paragraph (1) of rule 1200-3-4-.02 Definitions is amended by substituting for the present subparagraph (a), a new subparagraph (a) so that, as amended, the new subparagraph (a) shall read:

- (a) "Air Curtain Destructor" is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain. The use of an air curtain destructor is considered controlled open burning subject to opacity requirements as stated elsewhere.

Subparagraph (c) of paragraph (1) of rule 1200-3-4-.02 Definitions is repealed.

Subparagraph (d) of paragraph (1) of rule 1200-3-4-.02 Definitions is repealed.

Subparagraph (g) of paragraph (1) of rule 1200-3-4-.02 Definitions is repealed.

Subparagraph 1. of paragraph (1) of rule 1200-3-4-.02 Definitions is repealed.

Paragraph (1) of rule 1200-3-4-.02 Definitions is amended by adding a new subparagraph (k) so that, as amended, the new subparagraph (k) shall read:

- (k) “Natural Disaster” is defined as any event commonly referred to as an “Act of God” and includes but is not limited to the following weather related or naturally occurring categories of events: tornadoes, hail and wind storms, snow or ice storms, flooding, and earthquakes.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202.

Rule 1200-3-4-.03 Open Burning Prohibited is amended in five (5) respects as follows:

Paragraph (1) of rule 1200-3-4-.03 Open Burning Prohibited is amended by substituting for the present paragraph (1), a new paragraph (1) so that, as amended, the new paragraph (1) shall read:

- (1) No person shall cause, suffer, allow, or permit open burning except as specifically exempted by Rule 1200-3-4-.04 Exceptions to Prohibition.

Paragraph (2) of rule 1200-3-4-.03 Open Burning Prohibited is repealed.

Paragraph (3) of rule 1200-3-4-.03 Open Burning Prohibited is repealed.

Paragraph (4) of rule 1200-3-4-.03 Open Burning Prohibited is amended by substituting for the present paragraph (4), a new paragraph (4) so that, as amended, the new paragraph (4) shall read:

- (4) The open burning of tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials is expressly prohibited, and such materials shall not be included in any open burning conducted under the provisions of Rule 1200-3-4-.04 Exceptions to Prohibition.

Rule 1200-3-4-.03 Open Burning Prohibited is amended by adding a new paragraph (5) so that, as amended, the new paragraph (5) shall read:

- (5) The open burning of buildings or other structures in Williamson, Wilson, Rutherford, and Sumner counties for firefighter training is prohibited.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202.

Rule 1200-3-4-.04 Exceptions to Prohibition is amended in four (4) respects as follows:

Paragraph (1) of rule 1200-3-4-.04 Exceptions to Prohibition is amended by substituting for the present paragraph (1), a new paragraph (1) so that, as amended, the new paragraph (1) shall read:

- (1) Open burning, as listed below, may be conducted subject to specified limitations. This grant of exception shall in no way relieve the person responsible for such burning from the consequences, damages, injuries, or claims resulting from such burning.
 - (a) Repealed.
 - (b) Fires used for cooking of food or for ceremonial, recreational or comfort heating purposes, including barbecues, campfires, and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.
 - (c) Fires set by or at the direction of responsible fire control persons solely for training purposes: such as for fire source training at fire academies or for local fire department training. However, routine demolition of structures via supervised open burning by responsible fire control persons will not be considered fire training. Additionally, the person responsible for such burning, unless conducted at a recognized fire training academy, must certify compliance with the following requirements by written statement. The certification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the burn:
 1. The open burning is being conducted solely for fire training purposes.
 2. All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in rule 1200-3-4-.03, have been removed.
 3. All regulated asbestos containing materials have been removed in accordance with rule 1200-3-11-.02 (2)(d) 3 (x).
 4. A traffic hazard will not be caused by the air contaminants generated by the fire training.
 - (d) Fires consisting solely of vegetation grown on the property of the burn site. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
 - (e) Fires disposing of "wood waste" solely for the disposition of such wood waste as provided in T.C.A. §68-201-115(c). Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
 - (f) Fires for the burning of bodies of dead animals, including poultry, in accordance with T.C.A. §§44-2-1302, and where no other safe and/or practical disposal method exists.
 - (g) Smokeless flares or safety flares for the combustion of waste gases, provided other remaining applicable conditions of these regulations are met.
 - (h) Such other open burning as may be approved by the Tennessee Air Pollution Control Board where there is no other practical, safe, and/or lawful method of disposal. Documentation demonstrating why the general open burning regulations cannot be met must be submitted.
 - (i) Fires set at the direction of law enforcement agencies or courts for the purpose of destruction of controlled substances and legend drugs seized as contraband. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
 - (j) Open Burning of the following materials, and when conducted in conformity with the following conditions: non-radioactive, explosive, shock sensitive, chemically unstable, or highly reactive wastes, packaging,

or contaminated or potentially contaminated combustible materials which cannot be safely disposed of by other methods; any vegetation; manufactured lumber products not chemically treated to prevent insect or rot damage, such as plywood, fiberboard, and paneling; and uncoated paper and uncoated cardboard, both of which constitute less than ten (10) percent of the total weight of material burned on a daily basis. Additionally, the person responsible for such burning must certify compliance with the distance requirements by written statement. The certification must include the types and amounts of materials projected to be burned, a statement explaining why alternate disposal methods cannot be utilized, and must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the burn:

1. The site of such burning is not nearer than one-half mile to an airport, hospital, nursing home, school, Federal or State highway, national reservation, national or state park, wildlife area, national or state forest, and/or residences except such residences as may be located on the same property as the burning site.
 2. The site of such burning is not nearer than five hundred (500) feet to any registered sanitary landfill, or other land disposal sites for combustible solid waste, or other similar facilities.
 3. As a general rule, open burning will only be conducted between the hours of 9:00 a.m. and 3:30 p.m.
 4. All material to be burned must be dry and in all other respects be in a state to sustain good combustion.
 5. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.
 6. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result.
 7. For open burning exceeding one month in duration, alternate disposal methods must be investigated and a written report of progress must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center by February 1 of each year.
 8. All changes in types of, or increase in quantities of materials burned must be preceded by notification. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the change in the burn.
- (k) Open burning of the following materials, when an air curtain destructor is used, and when conducted in conformity with the following conditions: non-radioactive, explosive, shock sensitive, chemically unstable, or highly reactive wastes, packaging, or contaminated or potentially contaminated combustible materials which cannot be safely disposed of by other methods; any vegetation; manufactured lumber products not chemically treated to prevent insect or rot damage, such as plywood, fiberboard, and paneling; and uncoated paper and uncoated cardboard, both of which constitute less than ten (10) percent of the total weight of material burned on a daily basis. Additionally, the person responsible for such burning must certify compliance with the distance requirements by written statement. The certification must include the types and amounts of materials projected to be burned, a statement explaining why alternate disposal methods cannot be utilized, and must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the burn:
1. The open burning site must be at least five hundred (500) feet from any Federal or State highways.

2. The open burning site must be at least one thousand (1,000) feet from any school, national or state park, national reservation, national or state forest, wildlife area, and/or residence not on the same property as the air curtain destructor.
 3. The open burning site must be at least one-half (1/2) mile from any airport, nursing home, or hospital.
 4. The plume from the air curtain destructor must meet the visible emission standards specified in rule 1200-3-5-.01(1); however, for certain materials the Technical Secretary may allow one start-up period in excess of the standard, per day, not to exceed 20 minutes in 24 hours.
 5. All material to be burned must be dry and in other respects be in a state to sustain good combustion.
 6. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.
 7. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result.
 8. For open burning exceeding one month in duration, alternate disposal methods must be investigated and a written report of progress must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center by February 1 of each year.
 9. All changes in types of, or increase in quantities of materials burned must be preceded by notification. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the change in the burn.
- (l) Open burning of materials resulting from a natural disaster, and when conducted in conformity with the following conditions:
1. Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. Input from Emergency Management personnel may be requested in determining qualification with this criteria. The provisions of 1200-3-4-.03(4) pertaining to structural and household materials may be waived if the persons seeking to open burn under this provision make a reasonable effort to remove all expressly prohibited material from the structural remains before ignition. The Technical Secretary reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.
 2. If a governmental collective burn site for disposing of structural and household materials and vegetation damaged by a natural disaster is planned, the person responsible for such burning must notify the Division of Air Pollution of the proposed location. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least three (3) days prior to commencing the burn. The Division may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.
 3. A traffic hazard will not be caused by the air contaminants generated by the fire.
 4. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.
 5. Open burning conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.

Rule 1200-3-4-.04 Exceptions to Prohibition is amended by adding a new paragraph (2) so that, as amended, the new paragraph (2) shall read:

- (2) The Technical Secretary reserves the right to require a person to cease or limit open burning if emissions from the fires is deemed by the Technical Secretary or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.

Rule 1200-3-4-.04 Exceptions to Prohibition is amended by adding a new paragraph (3) so that, as amended, the new paragraph (3) shall read:

- (3) Any exception to the open burning prohibition granted by this Chapter does not relieve any person of the responsibility to obtain a permit required by any other agency, or of complying with other applicable requirements, ordinances, or restrictions. Particular attention is directed to T.C.A. §39-14-306.

Rule 1200-3-4-.04 Exceptions to Prohibition is amended by adding a new paragraph (4) so that, as amended, the new paragraph (4) shall read:

- (4) Failure to adhere to any applicable provision or condition of an exception to the open burning prohibition shall be construed as a violation of this Chapter and is subject to applicable provisions of the rules and statutes of the Tennessee Department of Environment and Conservation, Division of Air Pollution Control and such corrective/punitive measures that may be deemed appropriate by the Technical Secretary of the Tennessee Air Pollution Control Board.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202.

Rule 1200-3-4-.05 Permits for Open Burning is repealed.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202.

This notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-32)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF AIR POLLUTION CONTROL

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to *Tennessee Code Annotated, Section 68-201-105*. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-201 et. seq.* and will take place in the 8th Floor Conference Room of the L & C Tower, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 20 th day of July, 2000.

Written comments will be included in the hearing records if received by the close of business July 20, 2000, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (July 20, 2000) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298)

If you have any questions about the origination of this rule change, you may contact Mr. Jeff Cales at 931-432-7621. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 8th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUBSTANCE OF PROPOSED RULE

CHAPTER 1200-3-26
ADMINISTRATIVE FEES SCHEDULE

REPEAL

Rule 1200-3-26-.03 Open Burning Application Fees is repealed

Authority: *T.C.A. §§68-1-1301 68-25-105 and 4-5-201 et. seq.*

This notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-34)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SUPERFUND**

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to *T.C.A. Sections 68-212-203* and *68-212-215*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place at the Yorkville Elementary School, Cafeteria, 56 Nebo-Yorkville Road, Yorkville, Tennessee on July 18, 2000, at 6:30 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-1-13
HAZARDOUS SUBSTANCE SITE REMEDIAL ACTION**

AMENDMENTS

Rule 1200-1-13-.13 List of Inactive Hazardous Substance Sites is amended by adding the following site to the list, such addition being made in a manner so that the entire list remains in numerical order:

Site Number	Site Name
Gibson County (27)	
27-501	B & H Transformer Yorkville, TN

Authority: T.C.A. §§68-212-206(e) and 68-212-215(e).

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-40)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SUPERFUND**

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at the Tennessee Department of Environment and Conservation, Jackson Environmental Assistance Center, Conference Room A, 362 Carriage House Drive, Jackson, Tennessee 38305-2222 on July 17, 2000, at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-1-13
HAZARDOUS SUBSTANCE SITE REMEDIAL ACTION**

AMENDMENTS

Rule 1200-1-13-.13 List of Inactive Hazardous Substance Sites is amended by adding the following site to the list, such addition being made in a manner so that the entire list remains in numerical order:

Site Number	Site Name
Madison County (57)	
57-529	Jackson Automotive, Inc. Jackson, TN

Authority: T.C.A. §§68-212-206(e) and 68-212-215(e).

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-30)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY

There will be a hearing before the Division of Water Supply Staff representing the Water Quality Control Board of the Department of Environment and Conservation to hear comments from the public concerning amendments to the Regulations for Underground Injection Chapter 1200-4-6 pursuant to *T.C.A. 69-3-105 et seq.* The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated Section 4-5-204* and will take place at the Jackson Department of Environment and Conservation Environmental Assistance Center at 362 Carriage House Drive in Jackson at 1:00 pm CST on the 19th day of July, 2000; in the auditorium of the Fleming Training Center located at 202 Blanton Drive in Murfreesboro at 1:00 pm CST on the 20th day of July, 2000; and at the Knox County Health Department Auditorium, 140 Dameron Avenue, 2:30 pm EST in Knoxville on the 26th day of July, 2000. Written comments will be considered if received by close of business July 31, 2000. Written comments should be mailed to the Tennessee Division of Water Supply, 6th Floor L&C Tower, 401 Church Street, Nashville, TN 37243-1549.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than (10) days prior to the scheduled meeting date to allow time for the Department to determine how it may reasonable provide such aid or service. Initial contact may be made with the Department's ADA Coordinator, Mr. Isaac Okoreeh-Baah, Division of Real Property Management, 7th Floor, L&C Annex, 401 Church Street, Nashville, TN 37243-0449 whose telephone number is (615) 532-0059.

For a copy of the entire text of this notice of rulemaking hearing, contact:

Scotty Sorrells
 UIC Coordinator
 TN Division of Water Supply
 401 Church Street
 Nashville, TN
 (615) 532-9224

or the nearest office of the Tennessee Division of Water Supply at 1-888-891-8332.

Notice of Rulemaking Hearing Summary
 Department of Environment and Conservation
 Division of Water Supply
 Underground Injection Control Rules

Proposed Rule Changes Regarding Federal Primacy and Modifications Necessary upon the Deletion of the Underground Injection Control Ground Water Classification

Changes in the Underground Injection Control Rules are being proposed to more closely coincide with Environmental Protection Agency regulations. These changes are necessary for Tennessee to obtain primacy for the UIC program, including the changes made in EPA Class V regulations which became effective on November 26, 1999. Other modifications to the UIC regulations are also being proposed to substitute alternative language made necessary by the deletion of the ground water classification (rule 1200-4-6-.05) in the UIC regulations as a part of the promulgation of a new ground water classification under rule 1200-4-3-.07.

A total of 105 changes are being proposed to the existing regulations. These changes fall into seven basic areas, with the largest number of changes (60) due to the deletion of the ground water classification rule. The basic breakdown of these regulation changes is as follows:

Resulting from ground water classification deletion	60
Class I wells	3
Class II wells	10
Class IV wells	5
Class V wells	13
Fees and Bonding Additions	4
Miscellaneous	10

Discharge limits for oil and grease, dissolved oxygen, color and turbidity, pH, coliform bacteria, taste and odor, chemical constituents and other pollutants that had been a part of the previously deleted ground water classification in rule 1200-4-6-.05 have now been placed in the revised rule 1200-4-6-.05 which is now “Injected Fluid Standards.” The majority of the changes due to the ground water classification deletion in rule 1200-4-6-.05 are actually where language has been substituted to change “ground water classified pursuant to rule 1200-4-6-.05(1)” to “USDWs” (Underground Sources of Drinking Water), which is defined by both the State and EPA regulations. The changes made relative to the Class V wells (shallow injection wells into drinking water aquifers) are to coincide with EPA changes which became final on November 26, 1999.

Four of the proposed changes are the addition of fees and a bonding provision. These fees are necessary to provide the matching funds for the State to receive EPA UIC primacy funding. Fees have already been promulgated and collected for Class I wells in the past; however, all Class I wells have been closed in Tennessee. Class I fees have been the sole source of funding for Tennessee’s UIC program since 1991. The bonding provision that has also been proposed provides for plugging and abandonment bonding on Class I, II, III and certain Class V wells.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of May, 2000. (05-02)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER POLLUTION CONTROL**

There will be public rulemaking hearings before the Tennessee Department of Environment and Conservation, Division of Water Pollution Control, acting on behalf of the Water Quality Control Board, to consider the adoption and promulgation of rules and amendments to rules pursuant to the Water Quality Control Act, *Tennessee Code Annotated, Section 69-3-101 et seq.*, the Tennessee Environmental Protection Fund Act, *Tennessee Code Annotated, Section 68-203-101 et seq.* The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204*, and will take place at the following times and locations:

DATE:	HEARING LOCATIONS	TIME
July 27, 2000	Environmental Assistance Center Main Conference Room 372 Carriage House Drive Jackson, Tennessee	4:00 PM CDST

August 1, 2000	Environmental Assistance Center Main Conference Room Suite 220 2700 Middlebrook Pike Knoxville, Tennessee	4:00 PM EDST
August 3, 2000	Ruth Neff Conference Room 17 th Floor, L & C Tower 401 Church Street Nashville, Tennessee	4:00 PM CDST

Individuals with disabilities who wish to participate in these proceedings, or review these filings should contact the Department of Environment and Conservation to discuss any auxiliary aids, or services needed to facilitate such participation. Such contact may be in person or by writing, telephone, or other means, and should be made no less than ten (10) days prior to the specific scheduled meeting date or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Department of Environment and Conservation, ADA Coordinator, Isaac Okoreeh-Baah, 7th Floor L & C Tower, 401 Church Street, Nashville, Tennessee 37243, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rules 1200-4-11-.01 through .03 of Rule Chapter 1200-4-11 Water Pollution Control: Environmental Protection Fees are amended by deleting them in their entirety and substituting the following to read as follows:

TABLE OF CONTENTS

1200-4-11-.01	General	1200-4-11-.03	Schedule for Timely Action
1200-4-11-.02	Fees		

1200-4-11-.01 GENERAL

- (1) General:
 - (a) Pursuant to *T.C.A. §68-203-101* et seq. the Department of Environment and Conservation, hereafter referred to as the Department, shall charge fees for the various services and functions it performs under statutes, including the Water Quality Control Act of 1977. Fees under the Act are to be adopted as regulations by the Water Quality Control Board. This regulation prescribes those fees applicable to categories of applicants for and holders of permits issued under authority of the Act. The Board is further required to establish a schedule for timely action by the Department on permit applications where a permit processing fee is established. This regulation sets out such a schedule.
 - (b) Purpose, Scope, and Applicability-This Rule provides definitions of terms, general standards and procedures, and overview information applicable to these Rules.
 - (c) Use of the Number and Gender-As used in these Rules:

1. Words in the masculine gender also include the feminine and neuter genders; and
 2. Words in the singular include the plural; and
 3. Words in the plural include the singular.
- (b) Rule Structure-These Rules are organized, numbered, and referenced according to the following outline form:

(1) paragraph

(a) subparagraph

1. part

(i) subpart

(I) item

I. subitem

A. section

(A) subsection

(2) Definitions and References:

- (a) Definitions-When used in Rules 1200-4-11-.01 through .03, the following terms have the meanings given below unless otherwise specified:

“Act” means the Water Quality Control Act, as amended, *T.C.A. §69-3-101 et seq.*

“Application” means those forms supplied by the Department, properly completed, together with such technical reports, plans and specifications as may be required to apply for permit.

“ARAP” means Aquatic Resource Alteration Permit, a permit that authorizes the alteration of properties of the waters of the State resulting from activities other than point source wastewater discharges.

“Board” means the Water Quality Control Board.

“Clean Water Act (CWA)” is the common name for the Federal Water Pollution Control Act. Public law 92-500; 33 U.S.C. 1251et seq.; the legislation which provides statutory authority for both NPDES and Pretreatment Programs.

“Commissioner” means the Commissioner of the Department of Environment and Conservation or the commissioner’s duly authorized representative and, in the event of the commissioner’s absence or a vacancy in the Office of Commissioner, the Deputy Commissioner.

“Concentrated Animal Feeding Operation (CAFO)” means an animal feeding operation that may discharge to waters of the United States, impact groundwater or otherwise adversely impact the water resources of Tennessee.

“Construction Activity” means the disturbance of soils associated with clearing, grading, excavating, filling of land, or other similar activities which may result in soil erosion. Construction activity does not include agriculture and silvicultural practices.

“Control Authority” refers to:

1. the POTW if the POTW’s submission for its pretreatment program has been approved, or
2. the Approval Authority if the submission has not been approved.

“Department” means the Department of Environment and Conservation.

“Director” means the chief administrative officer of a State or Interstate water pollution control agency with an NPDES permit program approved pursuant to the Clean Water Act and an approved State pretreatment program.

“Division” means the Division of Water Pollution Control.

“Family Farm” means one or more tracts of land, used for agricultural purposes, that are held in private ownership by one or more people related by birth or marriage.

“Federal Water Pollution Control Act” means the federal law promulgated to control and eliminate pollutants, also known as the Clean Water Act, as amended. 33 U.S.C. 1251, et seq.

“Indirect Discharge” means introduction of pollutants into a POTW from any non-domestic source regulated by the Clean Water Act.

“Industrial Facility” means an applicant for or holder of a permit for discharge of wastewater other than domestic or municipal wastewater.

“Industrial Flow” means the daily effluent flow occurring on days when the facility is in operation, averaged over the 12 month period preceding the billing date for Permit Annual Maintenance Fees.

“Industrial User ” means source of Indirect Discharge.

“Large Pretreatment Program” means an approved program which has issued permits, for the purpose of controlling the discharge of process wastewater, to twenty or more significant industrial users.

“Major” means any holder of a NPDES permit classified as such by the Regional Administrator of the Environmental Protection Agency, in conjunction with the Director of the Division of Water Pollution Control.

“Medium Pretreatment Program” means an approved program which has issued permits, for the purpose of controlling the discharge of process wastewater, to eight or more, but less than twenty, significant industrial users.

“Mining” means any holder of a permit for discharge of wastewater from mining operations, including operations to obtain minerals, limestone, coal, marble, chert, gravel, sand, sandstone, dimension stone, phosphate, barite, shale, clay, fullers earth and those mining operations regulated by T.C.A. §59-8-201 et seq.

“Mining Reclamation” means any holder of a NPDES permit for the reclamation phase of mining operation.

“Minor” means any holder of a NPDES permit not classified as a major by the Regional Administrator of the Environmental Protection Agency, in conjunction with the Director of the Division of Water Pollution Control.

“National Pollutant Discharge Elimination System (NPDES)” is the national program for issuing, modifying, revoking and terminating permits for wastewater discharges to waters of the state and imposing conditions for those discharges, including pretreatment requirements.

“Natural Person” means an individual distinguished from an artificial person such as a corporation.

“Non-Discharging System” means an applicant for or holder of a permit for treatment and disposal of wastewater by means other than discharge to waters of the State. Such means may include, but are not limited to, recycle, irrigation, and evaporation.

“Owner or Operator” means any person who owns, leases, operates, controls, or supervises a source.

“Permit” means a permit issued under authority of T.C.A. §69-3-108 of the Act.

“Permit Annual Maintenance Fee” means a fee which is paid annually by a holder of a permit.

“Permit Application Fee” means a fee which is required to be paid upon application for a permit.

“Person” means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

“Personal Residence” means a natural person’s primary place of abode.

“Pretreatment Program” means a program administered by the POTW that meets the criteria established in the Federal Pretreatment regulations under 40 CFR 403 and which has been approved by a Regional Administrator or State Director.

“Process Wastewater” means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product. This does not include sanitary, boiler blow-down, or non-contact cooling water.

“Publicly Owned Treatment Works (POTW)” means a treatment works as defined by Section 212 of the Clean Water Act, which is owned by a State or municipality. This definition includes any devices and systems used in the storage and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant.

“Regional Administrator” means the appropriate EPA Regional Administrator. Specific to Tennessee, it would mean the Regional Administrator of EPA’s Region IV office in Atlanta, Georgia.

“Sewage Treatment Facility” means an applicant for or holder of a permit for discharge of municipal or domestic wastewater.

“Sewage Treatment Facility Flow” means the average daily effluent flow over the 12-month period preceding the fee billing date. The averaging basis shall include all days during which the treatment facility was in operation, whether or not there was any discharge.

“Significant Industrial User” means:

1. all industrial users subject to Categorical Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, and
2. any other industrial user that:
 - (i) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blow-down wastewater) or;
 - (ii) contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant or;
 - (iii) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.

“Small Pretreatment Program” means an approved program, which has issued permits, for the purpose of controlling the discharge of process wastewater, to less than eight significant industrial users.

“Stormwater” means rain water, snow melt, and surface runoff and drainage.

“Stormwater Discharges Associated with Construction Activity” means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to construction activity.

“Stormwater Discharges Associated with Industrial Activity” means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage area at an industrial plant.

“Treated Washwater Discharge” means treated wastewater from a washing process such as a laundromat, but not including rinseate from manufacturing processes.

“401 Certification” means certification under section 401 of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, for activities that require permits issued by the U.S. Corps of Engineers for discharges of dredge and fill materials.

Authority: T.C.A. §69-3-105(b) and §4-5-201 et seq. **Substantive Authority:** T.C.A. §68-203-101 et seq.

1200-4-11-.02 FEES

(1) Types of Fees:

- (a) Application fees for permit issuance or renewal shall be paid in full upon submittal of an application. The Department will not process an application without having received the fee. No refunds of permit application fees may be made for any reason, other than as required by T.C.A. §68-203-101 et seq.
- (b) Fees for 401 Certification of permits issued by the U.S. Army Corps of Engineers shall be sent to the Department by the applicant with either a copy of or reference to the application filed with the Corps.
- (c) Annual maintenance fees shall be paid to the Department for every year the permit is in effect. No annual maintenance fee will apply during any period between the permit expiration date and the permit reissuance date. The annual maintenance fee shall be due upon the date specified in a bill sent to the permittee by the Department. The bill will be sent out at least 45 days before the anniversary date of the issuance of the permit.
- (d) Plan review fees must be submitted before the review will be conducted or approval granted.

(2) Schedule of Fees

- (a) Application Fees for 401 Certifications, ARAP Permits and Stormwater Construction Permits shall be as follows:

1. 401 Certification of 404 permit or ARAP :

- (i) Projects equal to or greater than 10 acres or equal to or greater than 1,000 feet linear \$2,500
- (ii) Projects less than 10 acres or less than 1,000 feet linear \$1,000
- (iii) Watershed District Projects \$ 750
- (iv) Personal Residence or Family Farm \$ 50

2. Stormwater Discharge Permits associated with Construction Activities:

- (i) Projects equal to or greater than 500 acres \$7,500
- (ii) Projects equal to or greater than 100 acres and less than 500 acres \$5,000
- (iii) Projects equal to or greater than 50 acres and less than 100 acres \$2,500
- (iv) Projects equal to or greater than 25 acres and less than 50 acres \$1,000
- (v) Projects equal to or greater than 10 acres and less than 25 acres \$ 500

(vi) Projects equal to or greater than 5 acres and less than 10 acres	\$ 250
(vii) Projects equal to or greater than 1 acre and less than	\$ 100
(viii) Projects equal to or greater than 0 acre and less than	\$ 0
 (b) Maintenance Fees for Annual Permit Renewals shall be as follows:	
1. Gravel Dredging	\$ 100
2. Gravel Dredging for Personal Residence or Family Farm	\$ 0
3. Major Industrial Treatment Facility:	
(i) Flow equal to or greater than 10 MGD	\$7,500
(ii) Flow equal to or greater than 1 MGD and less than	\$6,250
(iii) Flow equal to or greater than 0.5 MGD and less than 1 MGD	\$5,000
(iv) Flow equal to or greater than 0.1 MGD and less than 0.5 MGD	\$3,750
(v) Flow less than 0.1 MGD	\$2,500
4. Minor Industrial Treatment Facility:	
(i) Flow equal to or greater than 10 MGD	\$5,000
(ii) Flow equal to or greater than 1 MGD and less than 10 MGD	\$3,750
(iii) Flow equal to or greater than 0.5 MGD and less than 1 MGD	\$2,500
(iv) Flow equal to or greater than 0.1 MGD and less than 0.5 MGD	\$1,000
(v) Flow less than 0.1 MGD	\$ 500
5. Stormwater Discharge Permits associated with Industrial Activities:	
(i) Facilities equal to or greater than 500 acres	\$ 700
(ii) Facilities equal to or greater than 50 acres and less than	\$ 550
(iii) Facilities equal to or greater than 10 acres and less than	\$ 400
(iv) Facilities equal to or greater than 1 acre and less than 10 acres	\$ 250

(v) Facilities greater than 0 acre and less than 1 acre	\$ 0
6. Sewage Treatment Facility Flow:	
(i) Flow equal to or greater than 5 MGD	\$7,500
(ii) Flow equal to or greater than 4.5 MGD and less than 5 MGD	\$7,250
(iii) Flow equal to or greater than 4 MGD and less than 4.5 MGD	\$7,000
(iv) Flow equal to or greater than 3.5 MGD and less than 4 MGD	\$6,750
(v) Flow equal to or greater than 3 MGD and less than 3.5 MGD	\$6,500
(vi) Flow equal to or greater than 2.5 MGD and less than 3 MGD	\$6,000
(vii) Flow equal to or greater than 2 MGD and less than 2.5 MGD	\$5,500
(viii) Flow equal to or greater than 1.5 MGD and less than 2 MGD	\$5,000
(ix) Flow equal to or greater than 1 MGD and less than 1.5 MGD	\$4,500
(x) Flow equal to or greater than 0.75 MGD and less than 1 MGD	\$4,000
(xi) Flow equal to or greater than 0.5 MGD and	\$3,500
(xii) Flow equal to or greater than 0.25 MGD and	\$2,500
(xiii) Flow equal to or greater than 0.1 MGD and	\$1,250
(xiv) Flow equal to or greater than 0.075 MGD and	\$ 750
7. Small Mechanical Facility flow less than 0.075 MGD	\$ 500
8. Small Non-Mechanical Facility flow less than 0.075 MGD	\$ 250
9. Non-Discharging Facility:	
(i) Influent flow equal to or greater than 0.075 MGD	\$1,000
(ii) Influent flow less than 0.075 MGD	\$ 250
10. Other Waste or Wastewater Operations Requiring Permit	\$1,000
11. General Permits (sources other than stormwater or animal concentrated feeding operation)	\$ 250
12. Municipal Pretreatment Programs as defined in RULE 1200-4-11-.01 (2)(a):	
(i) Large Pretreatment Program	\$5,000

(ii) Medium Pretreatment Program	\$3,000
(iii) Small Pretreatment Program	\$1,000
13. Mining:	
(i) Area equal to or greater than 500 acres	\$5,000
(ii) Area equal to or greater than 400 acres and less than 500 acres	\$4,500
(iii) Area equal to or greater than 300 acres and less than 400 acres	\$4,000
(iv) Area equal to or greater than 200 acres and less than 300 acres	\$3,500
(v) Area equal to or greater than 100 acres and less than 200 acres	\$3,000
(vi) Area equal to or greater than 75 acres and less than 100 acres	\$2,500
(vii) Area equal to or greater than 50 acres and less than 75 acres	\$2,000
(viii) Area equal to or greater than 25 acres and less than 50 acres	\$1,500
(ix) Area equal to or greater than 10 acres and less than 25 acres	\$1,000
(x) Area equal to or greater than 5 acres and less than 10 acres	\$ 750
(xi) Area less than 5 acres	\$ 500

Note: Fees are based on area being mined or area not yet reclaimed.

14. Mining Reclamation: \$ 250

(c) Plan Review Fees shall apply to new facilities as well as the expansion or modification of existing facilities. If the submittal includes more than one listed category, the fee will be the sum of the fees listed for each individual category. Review of plans documents will not commence until all fees required by these rules are paid in full. Plan Review Fees shall be as follows:

1. Major Industrial Wastewater Treatment Facility:	
(i) Flow equal to or greater than 5 MGD	\$1,500
(ii) Flow less than 5 MGD	\$1,000
2. Minor Industrial Wastewater Treatment Facility:	
(i) Flow equal to or greater than 0.1 MGD	\$ 500
(ii) Flow less than 0.1 MGD	\$ 250
3. Sewage Treatment Facility:	

(i)	Flow equal to or greater than 5 MGD	\$1,500
(ii)	Flow equal to or greater than 1MGD and less than 5 MGD	\$1,000
(iii)	Flow equal to or greater than 0 .075 MGD and less than 1 MGD	\$ 500
(iv)	Flow less than 0.075 MGD	\$ 250
4.	Collection Systems:	
(i)	Collection Lines-\$25.00 per 250 feet or portion thereof of sewage collection line excluding service laterals. Total fee not to exceed \$1,500.	
5.	Equalization Basins:	
(i)	Holding capacity equal to or greater than 5 million gallons (MG)	\$ 300
(ii)	Holding capacity equal to or greater than 1 MG and less than 5 MG	\$ 200
(iii)	Holding capacity equal to or greater than 0.075 MG and less than 1 MG	\$ 100
(iv)	Holding capacity less than 0.075 MG	\$ 50
6.	Pumping Stations:	
(i)	Design capacity equal to or greater than 5 MGD	\$ 300
(ii)	Design capacity equal to or greater than 1 MGD and less than 5 MGD	\$ 200
(iii)	Design capacity equal to or greater than 0.075 MGD and less than 1 MGD	\$ 100
(iv)	Design capacity less than 0.075 MGD	\$ 50
7.	Mining Operations:	
(i)	Coal	\$ 250
(ii)	Non-Coal-\$25.00 per acre, not to exceed	\$1,500
(iii)	Reclamation	\$ 250
(iv)	Quarries	\$ 250

8. Wastewater Plant and/or Collection System Modification:

The plans review fee for modifications to wastewater plants and/or collection systems shall be 20% of the full review fee based on the category and size of the resulting facility.

(d) Delegated Plans Review Authority:

Units of local government, which have been granted plans review authority, shall pay an annual fee of \$1,000. Failure of local government to pay this fee will be cause for the revocation of plans review authority.

(3) Collection of Fees

- (a) Fees resulting from application for a permit, maintenance of a permit or plans review, shall be made Payable and Mailed to the Department of Environment and Conservation; Attention: Environmental Protection Fees-Water Pollution Control.
- (b) Payments shall be clearly identified as to the permit, application, or plans to which they apply.
- (c) Fees are to be paid in full by the due date or, if required, at time of application.

(4) Penalties:

- (a) Any unpaid fee or portion thereof is subject to penalty.
- (b) For any part of any fee imposed but not paid within the specified period of fifteen (15) days of the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each month during which any part of any fee or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall accrue and be added thereto. In addition, the fees not paid within fifteen (15) days after the due date shall bear interest at the maximum lawful rate from the due date to the date paid.
- (c) The Commissioner of Environment and Conservation may file an action in the Chancery Court of Davidson County or any Court of competent jurisdiction for a judgement in the amount owed the State under the Water Quality Control Act, Tennessee Code Annotated, Section 69-3-101 et seq.

(5) Hearings:

- (a) Any person required to pay any fee specified in this rule, who disagrees with the calculation or applicability of the fee, may petition the Water Quality Control Board for a hearing. In order to perfect a hearing, the objecting party must present to the Technical Secretary of the Board, not later than fifteen (15) days after the fee due date:
 - 1. a petition for hearing, and
 - 2. the total amount of the fee.
- (b) Such hearing shall be in accordance with contested case provisions set forth in Title 4, Chapter 5, Tennessee Code Annotated.

- (c) If the fee was improperly assessed, the Technical Secretary shall return the amount determined to be improperly assessed plus interest on the excess accrued from the date the fee was presented to the Technical Secretary.

Rulemaking Authority: T.C.A. §69-3-105(b) and §4-5-201 et seq. **Substantive Authority:** T.C.A. §68-203-101 et seq.

1200-4-11-.03 SCHEDULE FOR TIMELY ACTION

(1) General

- (a) Permits required under Section 1200-4-11-.02 (2)(a)1 should be issued or denied within 90 days of receipt of the application. If a public hearing is scheduled, in response to comments by interested parties or the applicant requests additional time, an additional 90 days may be added to the allowable timeframe.
- (b) Permits required under Section 1200-4-11-.02 (2)(a)2 should be issued or denied within 30 days of receipt of the application.
- (c) Permits for major industries or sewage treatment facilities with flow over 1 MGD shall be issued or denied within 1 year of receipt of the application. If a public hearing is scheduled, in response to comments by interested parties, additional time is requested by the applicant, or EPA requests additional time, an additional 90 days may be added to the allowable timeframe.
- (d) All other permits for wastewater treatment systems required under Section 1200-4-11-.02 (b) shall be issued or denied within 180 days of receipt of the application. If a public hearing is scheduled, in response to comments by interested parties, additional time is requested by the applicant, or additional time is requested by EPA, an additional 90 days may be added to the allowable timeframe.
- (e) The Division shall complete its review of plan documents within 30 days of receipt, provided the plans contain sufficient information to make the necessary determinations.
- (f) If the Division fails to issue or deny the permit or review plans within the time frames specified above, the permit application filing/processing fee and/or plans review fee will be refunded to the applicant.
- (g) A quarterly report will be provided to the Water Quality Control Board. The report shall contain information on the timeliness of permit processing and plans review.

Rulemaking Authority: T.C.A. §69-3-105(b) and §4-5-201 et seq. **Substantive Authority:** T.C.A. §68-203-101 et seq.

OTHER INFORMATION

The Division has prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review at the Environmental Assistance Centers located as follows:

Chattanooga Environmental Assistance Center
Suite 550-State Office Building
540 McCallie Avenue
Chattanooga, Tennessee 37402-2013
(423)634-5745

Columbia Environmental Assistance Center
2484 Park Plus Drive
Columbia, Tennessee 38506 (931)380-3371

Cookeville Environmental Assistance Center
1221 South Willow Avenue
Cookeville, Tennessee 38506
(931)432-4015

Jackson Environmental Assistance Center
362 Carriage House Drive
Jackson, Tennessee 38305-2222
(901)661-6200

Johnson City Environmental Assistance Center
2305 Silverdale Road
Johnson City, Tennessee 37601-2162
(423)854-5400

Knoxville Environmental Assistance Center
Suite 220-State Plaza
2700 Middlebrook Pike
Knoxville, Tennessee 37921
(423)594-6035

Memphis Environmental Assistance Center
Perimeter Park, Suite E-645
2510 Mount Moriah Road
Memphis, Tennessee 38115-1520
(901)368-7939

Nashville Environmental Assistance Center
537 Brick Church Park Drive
Nashville, Tennessee 37243-1550
(615)226-6918

The "Draft" rules may also be accessed for review using <http://www.state.tn.us/environmental/new.htm> to locate the Department's World Wide Web Site.

Copies are also available for review at the Nashville Central Office (see address below).

Department of Environment and Conservation
Division of Water Pollution Control
6th Floor, L & C Tower
401 Church Street
Nashville, Tennessee 37243-1534

Office hours for the Division's offices are from 8:00 a.m. to 4:30 p.m., Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to:

Division of Water Pollution Control
Department of Environment and Conservation
Mr. Jerry M. Shoemake
6th Floor, L & C Annex
401 Church Street
Nashville, Tennessee 37243-1534

However, such written comments must be received by the Division no later than 4:30 p.m. CDST, August 14, 2000, in order to assure consideration.

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of May, 2000. (05-18)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY

There will be a hearings before the Division of Water Supply Staff representing the Water Quality Control Board of the Department of Environment and Conservation to hear comments from the public concerning amendments to the Regulations for Public Water Systems and Drinking Water Quality Chapter 1200-5-1 pursuant to *T.C.A. 68-221-701 et seq.* The proposed amendments were drafted primarily to incorporate into state regulations the minor revision to the Lead and Copper Control Rule promulgated January 12, 2000, by the Environmental Protection Agency. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated Section 4-5-204*. The hearing will take place at the following location on the date and time indicated below. Due to the numerous changes to the rule, the Division of Water Supply chose to propose the rule with all the changes incorporated to aid interested persons in reading the rule.

Fleming Training Center
2022 Blanton Drive
Main Auditorium
Murfreesboro, TN

10:00 am DST
July 20, 2000

Written comments will be also considered if received at the Division of Water Supply, 401 Church Street, Nashville, TN 37243-1549 by the close of business July 31, 2000.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than (10) days prior to the scheduled meeting date to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department's ADA Coordinator, Mr. Issac Okareeh-Baah, Division of Real Property Management, 7th Floor, L&C Annex, 401 Church Street, Nashville, TN 37243-0449 whose telephone number is (615) 532-0059.

For a copy of the entire text of this notice of rulemaking hearing, contact the nearest office of the Tennessee Division of Water Supply at 1-888-891-8332 or the central office of the Division at 615-532-0191. A complete text of the proposed Rules may also be found by visiting the Department of Environment and Conservation's Web site at <http://www.state.tn.us/environment/dws>.

SUBSTANCE OF THE PROPOSED RULES**DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER SUPPLY****CHAPTER 1200-5-1
PUBLIC WATER SYSTEMS****AMENDMENTS**

Rule 1200-5-1-.33 Control of Lead and Copper is amended by numerous deletions and additions.

The Environmental Protection Agency promulgated minor revisions to the National; Primary Drinking Water Regulations for Lead and Copper Control Rule to improve implementation. The stated intent of the action is to eliminate unnecessary requirements, streamline and reduce reporting burdens, and promote consistent national implementation. The changes do not affect the lead or copper maximum contaminant level goals, the action levels, or the basic regulatory requirements. The federal rule was published January 12, 2000, and became effective April 11, 2000.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-21)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY**

There will be a hearing before the Division of Water Supply Staff representing the Commissioner of the Department of Environment and Conservation to hear comments from the public concerning amendments to the Regulations for the Safe Dams Chapter 1200-5-7 pursuant to *T.C.A. 69-12-101 et seq.* The proposed amendments were drafted to clarify or revise certain portions of the regulations and to raise the fees for dam inspections and review of construction plans for new dams. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated Section 4-5-204* and will take place in the Main Auditorium of the Fleming Training Center located at 2022 Blanton Drive, Murfreesboro, TN, at 10:00 CDT on the 25th day of July, 2000.

Written comments will be also considered if received at the Division of Water Supply, 6th Floor - L&C Tower, 401 Church Street, Nashville, TN 37243-1549 by the close of business July 31, 2000.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than (10) days prior to the scheduled meeting date to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department's ADA Coordinator, Mr. Issac Okareeh-Baah, Division of Real Property Management, 7th Floor, L&C Annex, 401 Church Street, Nashville, TN 37243-0449 whose telephone number is (615) 532-0059.

For a copy of the entire text of this notice of rulemaking hearing, contact the nearest office of the Tennessee Division of Water Supply at 1-888-891-8332 or the central office of the Division at 615-532-0191. Complete text of the proposed Rules may also be found by visiting the Department of Environment and Conservation's website at <http://www.state.tn.us/environment/dws/index.html>

SUBSTANCE OF THE PROPOSED RULES

CHAPTER 1200-5-7 RULES AND REGULATIONS APPLIED TO THE SAFE DAMS ACT OF 1973.

AMENDMENTS

Paragraph (14) of rule 1200-5-7-.02 Definitions is amended by deleting the word "and" and adding at the end of the paragraph the phrase ", and meets the definition of a Category 3 dam in Rule 1200-5-7-.05(b)(3)." so that, as amended, the paragraph shall read:

- (14) Diversion Weir means a structure substantially within the bed of a stream, designed to impound water only during low flow conditions, that would not cause substantial overflow of water onto the downstream floodplain in the event of failure, and meets the definition of a Category 3 dam in Rule 1200-5-7-.05(b)(3).

Paragraph (22) of rule 1200-5-7-.02 Definitions is amended by deleting the phrases "State owned recreational lakes" and "state owned or operated conservation impoundments" from the fourth paragraph and inserting the phrase "Lakes owned or operated by a city, county, or the state, lakes that lie on three or more property parcels," at the beginning of the same paragraph so that, as amended, the paragraph shall read:

- (22) Lakes owned or operated by a city, county, or the state, lakes that lie on three or more property parcels, residential subdivision lakes, industrial waste impoundments, industrial water supply impoundments, impoundments owned or used by hunting clubs, public water supply impoundments, commercial land development impoundments, and watershed district impoundments.

The rest of the definition remains unchanged.

Paragraph (40) of rule 1200-5-7-.02 Definitions is deleted.

Paragraphs (41) and (42) of rule 1200-5-7-.02 Definitions are amended by changing their paragraph numbers to (40) and (41), respectively.

Subparagraph (c) of paragraph (1) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is amended by deleting the existing language and adding the following language so that, as amended, the subparagraph shall read:

- (c) Application for a Construction Certificate shall be made at least 60 days prior to the commencement of construction on forms available from the Commissioner.

Subparagraph (b) of paragraph (1) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is deleted.

Subparagraphs (c) through (g) of paragraph (1) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration are amended by changing their subparagraph letters to (b) through (f), respectively.

Subparagraph (c) of paragraph (2) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is amended by adding after the word “dam” the phrase “or dam alteration” and replacing the word “built” with the word “constructed” so that, as amended, the subparagraph shall read:

- (c) Any new dam or dam alteration must be constructed in accordance with the approved plans and specifications in order to receive an Operating Certificate.

Subparagraph (d) of paragraph (2) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is amended by deleting the first sentence and by replacing the word “The” in the remaining sentence with the phrase “A new” so that, as amended, the subparagraph shall read:

- (d) A new dam must not be allowed to impound water other than transient storage due to storm runoff until an Operating Certificate has been issued.

Subparagraphs (c) through (g) of paragraph (2) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration are amended by changing their subparagraph letters to (d) through (h), respectively.

Subparagraph (c) of paragraph (2) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is inserted by adding the following language so that, as amended, the subparagraph shall read:

- (c) Application for an Operating Certificate for a dam already having an Alteration Certificate shall be made within thirty (30) days from the completion of the alteration on forms available from the Commissioner. The application shall be accompanied by a statement signed by the responsible engineer certifying that the project was constructed in conformity with the approved plans and specifications. Additional information about the construction, such as that listed in 1200-5-7-.04(2)(b), must be included if the Commissioner determines that such information is needed to insure that the alteration is constructed properly.

Subparagraph (c) of paragraph (3) of rule 1200-05-7-.04 Certificates of Construction, Operation, and Alteration is amended by changing its subparagraph letter to (d).

Subparagraph (c) of paragraph (3) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is inserted by adding the following language so that, as amended, the subparagraph shall read:

- (c) The owner or his agent shall provide written notice to the Commissioner within five days of the date that construction commences and shall include the name of the engineer’s inspector if an inspector is required. The owner or his agent shall give written notice of the completion of the alteration to the Commissioner within five (5) days of the completion or in time for the Commissioner’s representative to be present at the final inspection with the engineer and the contractor, whichever occurs sooner.

Paragraph (4) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is amended by deleting the first paragraph so that, as amended, the paragraph shall read:

- (4) General Provisions for Certificates.

Subparagraph (a) of paragraph (4) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is amended by adding at the end of the subparagraph the following sentence “Where there are multiple owners of a dam, each owner shall not be required to file an application if all owners are listed in the application filed by any one of them.” so that, as amended, the subparagraph shall read:

- (a) Certificate applications shall be made on forms available from the Commissioner. Where there are multiple owners of a dam, each owner shall not be required to file an application if all owners are listed in the application filed by any one of them.

Subparagraph (b) of paragraph (4) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is amended by deleting the existing language and adding the following language so that, as amended, the subparagraph shall read:

- (b) Application for a Certificate shall be made on forms available from the Commissioner and shall include the following information:
 - 1. The name of the dam.
 - 2. The name of the owner.
 - 3. The legal address of the owner and/or lessee.
 - 4. The location of the dam.
 - 5. The type, size and height of the dam.
 - 6. The storage capacity and reservoir surface area for normal and maximum water surface elevation.
 - 7. The purpose, or purposes for which the dam or reservoir is to be used.
 - 8. In the case of an application by an owner or lessee of a dam, the names and addresses of all persons having a real property interest in the dam.
 - 9. Such other plans and detailed information as the Commissioner may deem reasonable and necessary to fulfill his responsibilities hereunder.

Subparagraphs (c) through (f) of paragraph (4) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration are amended by changing their subparagraph letters to (e) through (h), respectively.

Subparagraphs (c) and (d) of paragraph (4) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration are inserted by adding the following language so that, as amended, the subparagraphs shall read:

- (c) An owner making application for an Alteration or Construction Certificate shall engage a qualified professional engineer, practicing in accordance with the registration laws of Tennessee, to plan, to prepare designs and specifications, and to supervise construction. This engineer must be qualified and experienced in the design and construction of dams of the type proposed and may be required to present evidence of his qualifications to undertake the project.
- (d) The Commissioner shall examine the application for a certificate of approval and cause an on-the-ground inspection to be made of the existing or proposed dam or reservoir and downstream floodplain. He shall then, within sixty (60) days of the receipt of the completed application for a certificate of approval, either grant the certificate or disapprove it in writing, stating the reasons for disapproval. In the case of applications for construction certificates, applicants who fail to submit, within 18 months from the date of the original application submittal, plans or other detailed information required by the Commissioner must refile an application and plans review fee to obtain a construction certificate.

Paragraphs (1), (3), and (4) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration are amended by changing their paragraph numbers to (3), (4), and (1), respectively, and rearranging the paragraphs according to their new numbers.

Subparagraph (a) of paragraph (5) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is amended by deleting the existing language and adding the following language so that, as amended, the subparagraph shall read:

- (a) Construction and Alteration Certificates shall be for a single construction event. Construction Certificates shall be valid only for construction that begins within one year of issuance of the certificate.

Subparagraph (b) of paragraph (5) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is amended by inserting the phrase “Alteration and” at the beginning of the subparagraph so that, as amended, the subparagraph shall read:

- (b) Alteration and Operating Certificates shall be valid for a definite period of time, not to exceed five (5) years, as determined by the Commissioner and stated on the certificate. In determining the period of approval, the Commissioner may take account of any circumstances pertinent to the situation, including, but not limited to, the size and type of dam, topography, geology, soil conditions, hydrology, climate, use of reservoir and the lands lying in the floodplain downstream from the dam, and the hazard category of the dam.

Paragraph (8) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration is deleted.

Paragraphs (9) and (10) of rule 1200-5-7-.04 Certificates of Construction, Operation, and Alteration are amended by changing their paragraph numbers to (8) and (9), respectively.

Subparagraph (a) of paragraph (2) of rule 1200-5-7-.06 Standards For Existing Dams is amended by replacing the phrase “: Bermuda grass, tall fescue, lespedeza, and weeping lovegrass.” with the phrase “Bermuda grass and fescue.” so that, as amended, the subparagraph shall read:

- (a) Earth embankments shall be protected from surface erosion by appropriate vegetation or some other type protective surface such as riprap or paving and shall be maintained. Examples of appropriate vegetation include, but are not limited to, Bermuda grass and fescue. All inappropriate vegetation such as honeysuckle, briars, bushes, and trees shall be removed from the dam. Some trees may be allowed to remain on a dam if the Commissioner concurs with a justification from a qualified engineer for doing so. Such justification must satisfy the Commissioner that the number, size, location, root characteristics, etc., of such trees will not adversely affect the dam’s structural integrity and safety nor impede inspection.

Subparagraph (e) of paragraph (1) of rule 1200-5-7-.07 Design Standards For New Dams is amended by adding at the end of the paragraph the following language “A sunny-day breach shall be modeled with the impoundment at the elevation of the emergency spillway invert when the failure begins, or, if there is no emergency spillway, at the elevation of the inlet of the principal spillway. Breach modeling under sunny-day, overtopping, or any other conditions, is site specific.” so that, as amended, the subparagraph shall read:

- (e) A hydrologic/hydraulic analysis shall be submitted as an integral part of the engineering report for all dams. A breach analysis shall be submitted for all HPC 1 and HPC 2 dams and, for the former, shall be included in the Emergency Action Plan. The breach analysis must use surveyed cross sections at all stations where homes or other structures may be flooded. A sunny-day breach shall be modeled with the impoundment at the elevation of the emergency spillway invert when the failure begins, or, if there is no emergency spillway, at the elevation of the inlet of the principal spillway. Breach modeling under sunny-day, overtopping, or any other conditions, is site specific.

Part 3 of subparagraph (b) of paragraph (2) of rule 1200-5-7-.07 Design Standards For New Dams is amended by deleting the existing language and adding the following language so that, as amended, the part shall read:

3. Principal spillway conduits shall be of reinforced concrete pipe, cast-in-place reinforced concrete, ductile iron pipe, or plastic pipe. Fill height and foundation conditions require special considerations for ductile iron pipe and plastic pipe so that each use will be checked on an individual basis; cradling or encasement in concrete may be required. Welded steel pipe is not acceptable for Category 1 and Category 2 dams, and corrugated metal pipe is not acceptable for any class of dam.

Part 7 of subparagraph (b) of paragraph (2) of rule 1200-5-7-.07 Design Standards For New Dams is deleted.

Parts 8 and 9 of subparagraph (b) of paragraph (2) of rule 1200-5-7-.07 Design Standards For New Dams are amended by changing their part numbers to (7) and (8), respectively.

Part 1 of subparagraph (c) of paragraph (2) of rule 1200-5-7-.07 Design Standards For New Dams is amended by replacing the phrase “corrugated metal pipe” with the phrase “welded steel pipe” so that, as amended, the part shall read:

1. Category 3 dams: The minimum diameter of the principal spillway barrel will be 18 inches for fill heights up to 50 feet and 24 inches for greater heights; or
Where the drop inlet is designed hydraulically in such a way that the flow in the barrel under all possible conditions of discharge and foundation consolidation is positively known to be open channel flow with the water surface in the conduit subject to atmospheric pressure only, the minimum diameter shall be 18 inches; or
Where welded steel pipe is used, the principal spillway shall be designed in accordance with conditions presented in Rule 1200—5—7—.07(2)(e).

Subparagraph (e) of paragraph (2) of rule 1200-5-7-.07 Design Standards For New Dams is amended by deleting the phrase “corrugated metal pipe or” so that, as amended, the subparagraph shall read:

- (e) Principal spillways of welded steel pipe may be used for Category 3 dams under the following conditions, all of which must be met:

Part 3 of subparagraph (e) of paragraph (2) of rule 1200-5-7-.07 Design Standards For New Dams is deleted.

Part 4 of subparagraph (e) of paragraph (2) of rule 1200-5-7-.07 Design Standards For New Dams is amended by changing its part number to 3.

Subparagraph (b) of paragraph (3) of rule 1200-5-7-.07 Design Standards For New Dams is deleted.

Subparagraphs (c) through (e) of paragraph (3) of rule 1200-5-7-.07 Design Standards For New Dams are amended by changing their subparagraph letters to (b) through (d), respectively.

Subparagraph (a) of paragraph (4) of rule 1200-5-7-.07 Design Standards For New Dams is amended by replacing the number “36” with the number “20” so that, as amended, the subparagraph shall read:

- (a) An emergency spillway shall be provided for each structure, unless the principal spillway is large enough to pass the routed freeboard hydrograph discharge and the debris that comes to it. A conduit type principal spillway having a barrel with a cross-sectional area of 20 square feet or more, an inlet which will not clog, and an elbow designed to facilitate the passage of debris, is the minimum size and design that may be utilized without an emergency spillway. If a principal spillway of this type and size is

not provided, danger from clogging requires the use of an emergency spillway regardless of the volume of storage provided.

Subparagraph (d) of paragraph (4) of rule 1200-5-7-.07 Design Standards For New Dams is amended by deleting the existing language and adding the following language so that, as amended, the subparagraph shall read:

(d) Minimum Freeboard Design Storms

Size	Freeboard Design Storm (6 Hour)
Small	½ PMP
Intermediate	PMP
Large	PMP

Subparagraph (e) of paragraph (4) of rule 1200-5-7-.07 Design Standards For New Dams is amended by replacing the phrase “a hazard classification appropriate for” with the phrase “the size corresponding to” and by adding after the first sentence the following sentence “Any new dam constructed between October 3, 1987, and (*effective date of revised reg’s*) shall be required to pass the Freeboard Design Storm specified in subparagraph 1200-5-7-.06(3)(b)” so that, as amended, the subparagraph shall read:

- (e) All dams shall have an emergency spillway system with capacity to pass a flow resulting from a 6 hour design storm indicated in (d) above for the size corresponding to the dam. Any new dam constructed between October 3, 1987, and (*effective date of revised reg’s*) shall be required to pass the Freeboard Design Storm specified in subparagraph 1200-5-7-.06(3)(b). However, if the applicant’s engineer provides calculations, designs, and plans to show that the design flow can be stored, passed through, or passed over the dam without failure occurring, or if he can successfully demonstrate to the Commissioner that the dam is a safe structure and can certify that the dam is sufficient to protect against probable loss of human life downstream, said dam design may be approved by the Commissioner. The establishment of the criteria in (d) above does not eliminate the need for sound engineering judgment but only establishes the lowest limit of design considered acceptable.

Subparagraph (f) of paragraph (5) of rule 1200-5-7-.07 Design Standards For New Dams is amended by replacing the phrase “: Bermuda grass, fescue, lespedeza, and weeping lovegrass.” with the phrase “Bermuda grass and fescue.” so that, as amended, the subparagraph shall read:

- (f) All dams shall be protected from surface erosion by appropriate vegetation or some other type of protective surface such as rip-rap or paving and shall be maintained. Examples of appropriate vegetation include, but are not limited to, Bermuda grass and fescue. All inappropriate vegetation such as honeysuckle, briars, bushes and trees shall be kept off the dam by routine mowing.

Subparagraphs (a), (b), and (c) of paragraph (4) of rule 1200-5-7-.08 Engineering Requirements are deleted.

Paragraph (1) of rule 1200-5-7-.09 Fees is amended by deleting the existing language and adding the following language so that, as amended the paragraph shall read:

- (1) Project Review Fee. A project review fee will be charged by the Commissioner for all new dam and reservoir construction. The fee is to accompany the application for a Construction Certificate. New dams will not be charged for the inspection fee for the initial Operating Certificate. The fee will be based upon the size categories shown below, but in no case shall the total project review fee exceed one percent (1%) of the total estimated cost of the dam.

Schedule of Charges

Height of Dam	Charge for Project Review
6 - 40 feet	\$1000
41 - 60 feet	\$2500
greater than 60 feet	\$5000

If a construction certificate expires without construction having begun, the certificate holder may re-apply for a new construction certificate within one year of the expiration date of the original certificate and pay project review fee of only \$500, provided that no substantial changes have been made to the plans and specifications.

Paragraph (2) of rule 1200-5-7-.09 Fees is amended by deleting the existing language and adding the following language so that, as amended, the paragraph shall read:

- (2) Safety Inspection Fee. Fees will be charged for Safety Inspections by the Division. The fee is to accompany the application for an Operating Certificate. The fee will be \$500.00 per inspection. All fees and charges shall be payable only by check or money order to the State of Tennessee.

Authority: *T.C.A. §§4-5-202, 69-12-104, and 69-12-101 et seq.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-50)

**DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620
DIVISION OF ACCOUNTS**

There will be a hearing before the Department of Finance to consider the promulgation of rules pursuant to *Public Acts of 1988, Chapter 1037 §1037-41, Tennessee Code Annotated Sections 9-4-604, and 47-29-102*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *T.C.A. §4-5-204* and will take place in Conference Room C, 15th floor of the Snodgrass-Tennessee Tower located at 312 8th Avenue N, Nashville, Tennessee at 9:00 am CST on the 17 day of July, 2000.

Written comments will be considered if received by the close of business, July 17, 2000, at the office of the Division of Policy Development, 15th floor, Snodgrass-Tennessee Tower, 312 8th Avenue North, Nashville, Tennessee 37243.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings should contact the Department of Finance and Administration to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the (the date the party intends to review such filings), to allow time for the Department of Finance and Administration to determine how it may reasonably provide such aid or service. Contact the ADA Coordinator in the Human Resource Division of Department of Finance and Administration at 21st floor, Snodgrass-Tennessee Tower, 312 8th Avenue N., Nashville, Tennessee 37243, (615) 741-1301.

For complete copies of this notice of rulemaking hearing, contact: Rosalyn Pope, Department of Finance and Administration, 15th floor, Snodgrass-Tennessee Tower, 312 8th Avenue N., Nashville, Tennessee 37243, (615) 532-1094.

**PROPOSED RULES
OF
THE DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF ACCOUNTS**

**CHAPTER 0620-1-10
PROCEDURES FOR RETURNED CHECKS**

0620-1-10-.01 INTRODUCTION.

The Department of Finance and Administration has been granted authority over certain accounting and budget functions of state government. The Department has been directed by the Legislature to develop and implement a policy, with the State Treasurer and approval of the Comptroller, to recover the State's costs associated with checks, warrants, or drafts deposited to a state account that are subsequently returned unpaid to the drawer's bank. These regulations establish procedures to ensure that the State government pursues all available recourses in the event it receives payment in a form that is not honored by the financial institution on which the payment is drawn.

Authority: Public Acts of 1988, Chapter 1037, Section 41, Item 30, and T.C.A.-4-5-202et seq.

0620-1-10.02 REMEDIES FOR PAYMENTS TO THE STATE WITH DISHONORED FINANCIAL INSTRUMENTS.

In the event that any State department or agency is paid check, draft, or warrant deposited to a State account that is subsequently returned unpaid to the drawer's bank, such department or agency shall undertake the following actions:

- (1) Assess the handling charge against the maker or drawer of a check, warrant, or order which is not paid by the drawee due to insufficient or no funds, as authorized by *T.C.A. §47-29-102*.
- (2) To the extent that the State is required to use a collection agency to obtain recovery on the account, assess the fee authorized by *T.C.A. §62-20-115* to the extent that this statute is applicable to the account at issue.
- (3) If the check, warrant, or draft was used to obtain a license or permit, refer the matter to the appropriate agency, board, or commission for possible disciplinary or remedial action, up to and including revocation of the license or permit if available under applicable law.
- (4) Utilize any available authority in applicable contracts, payment agreements, statutes, or regulations to recover the costs associated with recovery of the account on which the check, draft, or order was given, including interest and attorney's fees.
- (5) To the extent that goods or services were paid for by such a check, draft, or order, take whatever actions are needed to recover the value of such goods and services and terminate the ongoing provision of goods or services.
- (6) If the person or entity who uttered the check, draft, or order is entitled any money from the public treasury of the State, take action to prevent such payments until the debt to the State is satisfied under the authority of Tennessee Code Annotated Section 9-4-607.
- (7) If the person who uttered the check, draft, or order is a state employee, seek assistance from the employing agency to recover the funds.

- (8) If the check, draft, or order was not paid by the drawee bank due to an error of that bank, or another action that the agency considers not attributable to the intentional act or negligence of the drawer of the instrument, the agency shall waive the penalties provided by this Chapter.
- (9) All actions taken under this Chapter shall be in accordance with and subject to any applicable Constitutional, statutory, and regulatory requirements under State and Federal law, including the due process requirements and the bankruptcy code. Agencies shall consult with staff attorneys and/or the Attorney General if necessary to obtain legal advice and assistance in complying with applicable laws and enforcing the State's remedies.

Authority: *Public Acts of 1988, Chapter 1037, §41, Item 30, T.C.A. 4-5—202 et seq.*

The notice of rulemaking set out herein was properly file in the Department of State on the 23rd day of May, 2000. (05-20)

**DEPARTMENT OF HEALTH - 1200
BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS**

There will be a hearing before the Tennessee Board of Alcohol and Drug Abuse Counselors to consider the promulgation of amendments to rules pursuant to *T.C.A. §§ 4-5-202, 4-5-204, and 68-24-605*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 29th day of August, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1200-30-1-.05, Licensure Process, is amended by deleting subparagraphs (2) (b), (2) (c) and paragraph (4) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (b), (2) (c) and paragraph (4) shall read:

- (2) (b) The denial of licensure by any other state or territory of the United States or by any other entity assigned to the Division of Health Related Boards as provided in Rule 1200-10-1-.01 (3), or the professional discipline of the applicant in any state or territory of the United States or by any other entity assigned to the Division of Health Related Boards as provided in Rule 1200-10-1-.01 (3);
- (2) (c) Loss or restriction of licensure in any state or territory of the United States or by any other entity assigned to the Division of Health Related Boards as provided in Rule 1200-10-1-.01 (3); and
- (4) Application procedures shall be governed by Rule 1200-30-1-.07, and applicant review and licensure decisions shall be governed by Rule 1200-30-1-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, and 68-24-605.

Rule 1200-30-1-.09, Renewal Of License, is amended by adding the following language as new paragraph (4)

- (4) Application procedures shall be governed by Rule 1200-30-1-.07, and applicant review and licensure decisions shall be governed by Rule 1200-30-1-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606.

Rule 1200-30-1-.11, Licensure Retirement and Reactivation, is amended by adding the following language as new paragraph (3)

- (3) Application procedures shall be governed by Rule 1200-30-1-.07, and applicant review and licensure decisions shall be governed by Rule 1200-30-1-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606.

Rule 1200-30-1-.15, Disciplinary Actions, Civil Penalties, And Declaratory Orders, is amended by adding the following language as new subparagraphs (3) (k) and (3) (l):

- (k) When an applicant has had licensure disciplinary action taken or is under investigation by another state or territory of the United States or by any other entity assigned to the Division of Health Related Boards as provided in Rule 1200-10-1-.01 (3) for any acts or omissions which would constitute grounds for discipline of a license issued by this Board. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action or investigation from the disciplining state, territory, or licensing authority shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a license issued by this Board.

- (l) When any applicant's application indicates a problem in the areas of mental, physical, moral or educational criteria for licensure or renewal which the Board determines may create a potential threat to the public health, safety or welfare.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-29)

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240
DIVISION OF REHABILITATION SERVICES**

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to *Tennessee Code Annotated* §§ 4-5-201 et seq. and 71-1-105(12). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated*, § 4-5-204 and will take place in the 15th Floor, Puett Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee at 10:00 a.m. CDT on Tuesday, July 25, 2000.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date or the date the party intends to review such filings, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services' ADA Coordinator, Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5570.

For a copy of this notice of rulemaking hearing, contact: Phyllis Simpson, Assistant General Counsel, Department of Human Services, Tennessee Tower, 312 8th Avenue North, 26th Floor, Nashville, TN 37243, telephone number (615) 741-9534.

SUMMARY OF PROPOSED RULES

**CHAPTER 1240-8-2
GENERAL RULES**

Chapter 1240-8-2 is organized according to the following structure:

1240-8-2-.01 Purpose –States the purpose of Rehabilitation Services and describes the disabled individuals served.

1240-8-2-.02 Definitions- Definitional section for terms commonly used in this section.

1240-8-2-.03 Scope Of Services-Describes vocational rehabilitation services that are available to individuals as appropriate to the vocational rehabilitation needs of each individual.

1240-8-2-.04 Procedures-Sets forth that procedures governing the provision of services are developed in accordance with these rules and the Rehabilitation Act of 1973, as amended.

1240-8-2-.05 Legal Basis- Provides the legal basis for this Agency to administer the vocational rehabilitation program and establishes the authority for the Agency to submit a plan as a condition for the receipt of Federal funds under Title I of the Rehabilitation Act of 1973, as amended.

CHAPTER 1240-8-3 ADMINISTRATION

Chapter 1240-8-3 establishes the responsibility of the Division of Rehabilitation Services to provide necessary rehabilitation services and vests responsibility for administration of the program to the head of the designated State Division of Rehabilitation Services. The Chapter is organized as follows:

1240-8-3-.01 State And Local Organization And Administration- Designates the job titles to be supervised by the Agency supervisors; establishes contact information for Division offices and for the Client Assistance Program; assigns responsibility for determination of eligibility for services; and outlines affirmative action requirements.

1240-8-3-.02 Economic Needs Tests- Describes the Agency's economic need requirements for the provision of specific services.

1240-8-3-.03 Staff Development And Training- Describes how this Agency will ensure the availability of qualified rehabilitation personnel through systematic training programs.

1240-8-3-.04 Medical And Psychological Consultation In The Vocational Rehabilitation Process-Describes the policy of the Agency to secure a sufficient number of physicians and psychologists to provide adequate consultation services to the staff regarding medical and psychological aspects of rehabilitation.

CHAPTER 1240-8-4 SERVICES TO INDIVIDUALS

Chapter 1240-8-4 describes the rehabilitation process and services and is organized as follows:

1240-8-4-.01 Intake: Referrals And Applications- Describes how an applicant may initiate procedures to receive services from this Agency.

1240-8-4-.02 Evaluation Or Assessment For Determining Eligibility, And Priority For Services- Describes how an assessment will be made for determination of eligibility or priority for services.

1240-8-4-.03 Eligibility, Ineligibility And Certification- Describes how it is determined if an individual will be eligible or ineligible to receive services and how this is documented.

1240-8-4-.04 Annual Reviews Of Ineligibility Decisions- Sets forth the conditions that must be met to provide an annual review of an ineligibility decision.

1240-8-4-.05 Individualized Plan For Employment- Explains the rights of an eligible individual or designated representative, if appropriate, to develop a plan for employment, jointly with Agency staff, outlining the terms and conditions of the plan, including provision for post-employment services.

1240-8-4-.06 Counseling, Guidance And Referral Services- Describes the essential services necessary to develop or implement the rehabilitation program.

1240-8-4-.07 Physical And Mental Restoration Services- Refers to a variety of corrective medical, surgical, psychiatric, or other therapeutic treatments enabling the client to be restored or improved physically or mentally.

1240-8-4-.08 Physicians' Services And Medical Diagnosis- Describes criteria for medical providers; specifies purpose of medical assessment and conditions under which restoration services are provided.

1240-8-4-.09 Hospital And Clinic Services- Designates conditions under which hospitals may be approved.

1240-8-4-.10 Dental Diagnosis And Services- Explains conditions under which dental services may be approved.

1240-8-4-.11 Eyeglasses And Visual Services- Describes approved visual services.

1240-8-4-.12 Medical Care For Acute Conditions- Defines acute conditions and explains criteria for provision of medical care for acute conditions.

1240-8-4-.13 Training Services- Outlines purpose of training, requirements for participation in costs, academic standards, and use of comparable benefits.

1240-8-4-.14 Maintenance- Defines maintenance services and conditions for provision of these services.

1240-8-4-.15 Transportation- Defines criteria for provision of transportation services.

1240-8-4-.16 Interpreter Services For The Deaf- Describes criteria for provision of interpreting services.

1240-8-4-.17 Reader, Teaching, Orientation And Mobility Services- Specifies purpose of these services in helping visually impaired clients to reach the rehabilitation objective and to achieve independence.

1240-8-4-.18 Telecommunications, Sensory And Other Technological Aids And Devices- Defines these services and describes the purpose of provision of services.

1240-8-4-.19 Services To Family Members- Describes criteria for provision of services to family members of rehabilitation clients.

1240-8-4-.20 Placement In Suitable Employment- Defines eligibility for job placement services; gives criteria for determining that an individual with a disability has achieved suitable employment.

1240-8-4-.21 Post-Employment Services- Describes the purpose of provision of services to an individual with a disability who has achieved suitable employment.

1240-8-4-.22 Licenses, Tools, Equipment, Initial Stocks And Supplies- Specifies the purpose of provision of these services, outlines the responsibilities of the client in using and maintaining purchased equipment, and specifies economic need criteria to be applied.

1240-8-4-.23 Other Goods And Services- Lists other goods and services which may be provided, gives the purpose for provision of these services, and specifies economic need criteria.

1240-8-4-.24 Standards For Closing Cases- Describes standards for appropriate closure of an individual's case depending upon when, during the rehabilitation process, that the case is closed.

CHAPTER 1240-8-5
SERVICES TO INDIVIDUALS: RELATED PROVISIONS

1240-8-5-.01 Order Of Selection And Priority Categories- Defines the purpose of an order of selection and the criteria for determining which individuals may be served when sufficient funds are not available to serve all eligible individuals.

1240-8-5-.02 Participation In Cost- Explains criteria for participation by the eligible individual in the cost of purchased services. Describes terms under which reimbursement from the individual may be pursued.

1240-8-5-.03 Consideration Of Comparable Services Or Benefits And Subrogation- Describes the requirement to seek comparable services to meet the cost of Rehabilitation Services. Lists exemptions from the requirement to seek comparable benefits. Discusses the subrogation of funds expended by the Agency that a third party is legally obligated to pay.

1240-8-5-.04 Confidentiality- Replaces the word "client" with "individual" in this section, which explains the confidentiality of agency records and the circumstances under which information may be released.

1240-8-5-.05 Review Of Extended Employment In Rehabilitation Facilities- Requires periodic reviews of the status of individuals who are in extended employment within rehabilitation facilities, for the purpose of determining the feasibility of competitive employment or training for competitive employment.

1240-8-5-.06 Tennessee Rehabilitation Center- Describes the purpose of the Tennessee Rehabilitation Center and the services provided.

1240-8-5-.07 Tennessee Vocational Training Center Program- Describes the services of the 19 Tennessee Vocational Training Center programs.

CHAPTER 1240-8-6
SERVICES TO GROUPS, CONSTRUCTION AND ESTABLISHED PROGRAMS

1240-8-6-.01 Facilities And Services For Groups Of Individuals With Disabilities- Describes policies related to the provision of services to groups of individuals and to transition services for students with disabilities, in cooperation with school systems. Describes cooperative programs between the Tennessee Vocational Training Centers and school systems.

1240-8-6-.02 Construction Of Rehabilitation Facilities- Describes the provision for construction of public or non-profit rehabilitation facilities. Describes the inventory of rehabilitation facilities and services available within the state, as well as the utilization patterns and potential.

1240-8-6-.03 Establishment Of Rehabilitation Facilities- Specifies the conditions under which new facilities are to be established and the standards they must meet.

CHAPTER 1240-8-7
RECORDS AND REPORTS

1240-8-7-.01 Retention And Disposal Of Records- Describes the requirements and time frames for the retention and disposal of rehabilitation case records.

**CHAPTER 1240-8-8
GRANTS AND PROJECTS**

1240-8-8-.01 Grant Administration Policy- Explains the process of grants to public and/or non-profit agencies to provide vocational rehabilitation services to applicants or eligible individuals. Specifies limitations on funding.

**CHAPTER 1240-8-11
SUPPORTED EMPLOYMENT SERVICES PROGRAM**

1240-8-11-.01 Supported Employment Services Program- Describes the purpose of the supported employment program administered by the Division of Rehabilitation Services.

1240-8-11-.02 Definitions- Defines terms related to supported employment services and outlines eligibility criteria for these services. Describes supported employment program models.

1240-8-11-.03 Eligibility Criteria- Elaborates on eligibility criteria for supported employment services.

1240-8-11-.04 Provision Of Services- Describes criteria for evaluation for supported employment services. Outlines the responsibilities of the rehabilitation counselor in maintaining contact with the individual during the ongoing support services and post-employment services.

1240-8-11-.05 Case Closure- Describes the criteria for case closure and gives indicators of job stability allowing for supported employment case closure with a successful outcome.

Authority: TCA §§ 4-5-202; 71-1-105(12); 49-11-601 et seq.; and 34 CFR Part 361.

For a copy of the entire text of these rules, contact Phyllis Simpson, Assistant General Counsel, Tennessee Department of Human Services, Tennessee Tower, 312 8th Avenue North, 26th Floor, Nashville, TN 37243, telephone number (615) 741-9534.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-37)

TENNESSEE MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of amendments to rules pursuant to *T.C.A. §§ 4-5-202, 4-5-204, and 63-18-211*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 14th day of August, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0870-1-.06, Fees, is amended by deleting subparagraphs (2) (a) and (2) (c) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (a) and (2) (c) shall read:

- | | | | |
|-----|-----|---|----------|
| (2) | (a) | Individual Application Fee - Which includes: | |
| | | 1. Application Fee | \$ 25.00 |
| | | 2. Initial Licensure Fee | \$250.00 |
| | | 3. State Regulatory Fee | \$ 10.00 |
| | | Total application fee due at the time of application. | \$285.00 |
| (2) | (c) | Individual Biennial Licensure Renewal Fee | \$200.00 |

Authority: *T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-107, 63-1-108, 63-1-112, 63-18-205, and 63-18-211.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-46)

BOARD OF MEDICAL EXAMINERS - 0880 COMMITTEE ON PHYSICIAN ASSISTANTS

There will be a hearing before the Tennessee Board of Medical Examiners' and its Committee on Physician Assistants to consider the promulgation of amendments to rules pursuant to *T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-19-104, 63-19-107* and Public Chapter 584 of the Public Acts of 2000. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 16th day of August, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0880-2-.18, Supervision of Physician Assistants, is amended by deleting paragraph (12) in its entirety and substituting instead the following language, so that as amended, the new paragraph (12) shall read as follows:

- (12) The number of physician assistants for whom a physician may serve as the supervising physician shall be determined by the physician at the practice level, consistent with good medical practice.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-19-104, 63-19-106, and Public Chapter 584 of the Public Acts of 2000.*

Rule 0880-3-.10, Range Of Services / Supervision, is amended by adding the following language as new paragraph (3), so that as added the new paragraph (3) shall read as follows:

- (3) Each physician assistant shall have a designated primary supervising physician and shall notify the Committee of the name, address, and license number of his/her primary supervising physician and shall notify the Committee of any change in such primary supervising physician within fifteen (15) days of the change.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-106, 63-19-107, and Public Chapter 584 of the Public Acts of 2000.*

Rule 0880-3-.12, Continuing Education, is amended by deleting subparagraphs (1) (a), and (2) (a), in their entirety and substituting instead the following language for subparagraphs (1) (a) and (2) (a) and is further amended by deleting subparagraph (2) (b) in its entirety and re-lettering the remaining subparagraphs of paragraph (2) accordingly, so that as amended, the new subparagraphs (1) (a), and (2) (a) shall read as follows:

- (1) (a) All physician assistants must, within a two (2) year period prior to the application for license renewal, complete one hundred (100) hours of continuing medical education in courses approved by the Committee. The hours must reflect a minimum of forty (40) hours in Category I type education and the remainder must be in Category II type education as defined by the A.A.P.A. in its biennial "Continuing Medical Education Logging Form".
- (2) (a) All physician assistants must, on the license renewal form, enter a signature which indicates completion of the required continuing education hours, and that such hours were obtained during whichever of the following two (2) year periods applies to the applicant:
 1. For those certified by the N.C.C.P.A.; the most recent two (2) year period, from June 30 to June 30 depending upon the year of initial certification in the N.C.C.P.A., as utilized by N.C.C.P.A. to determine whether that person has obtained sufficient continuing medical education hours to maintain his or her professional certification.
 2. For those not certified by the N.C.C.P.A.; the most recent two (2) year period, from June 30 to June 30 depending upon the year of birth of the licensee (rather than the year of initial certification by the N.C.C.P.A.) as would have been utilized by the N.C.C.P.A. to determine whether that person would

have, had he or she been certified, obtained sufficient continuing medical education hours to maintain his or her professional certification if the N.C.C.P.A.'s certification were based on year of birth rather than year of initial certification.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-19-104, and Public Chapter 584 of the Public Acts of 2000.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 17th day of May, 2000. (05-11)

BOARD OF REGISTRATION IN PODIATRY - 1155

There will be a hearing before the Tennessee Board of Registration in Podiatry to consider the promulgation of amendments to rules pursuant to *T.C.A. §§ 4-5-202, 4-5-204, 63-3-106, and 63-3-125*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 15th day of August, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1155-2-.06, Fees, is amended by deleting subparagraphs (1) (c) and (1) (g) in their entirety and renumbering the remaining subparagraphs accordingly, and is further amended by deleting subparagraph (4) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (4) (b) shall read:

(4) (b) Application \$ 150.00

Authority: *T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-3-106, 63-3-111, and 63-3-114.*

Rule 1155-2-.07, Application Review, Approval, Denial, Interviews, is amended by adding the following language as an introductory sentence:

1155-2-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS. This rule determines the procedure the Board shall use to make decisions for applicants seeking to practice podiatry pursuant to this chapter and for applicants seeking to operate x-ray equipment for diagnostic purposes in podiatrists' offices pursuant to Chapter 1155-3.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, 63-3-109, 63-3-110, 63-3-111, 63-3-112, 63-3-114, 63-3-115, and 63-3-125.

1155-2-.08, Examinations, is amended by adding the following language as new subparagraphs (2) (c) and (2) (d) and is further amended by deleting subparagraph (6) (a) in its entirety and substituting the following language, so that as amended, the new subparagraphs (2) (c) and (2) (d) and the new subparagraph (6) (a) shall read:

- (2) (c) The examination will be administered by the testing agency.
- (2) (d) The testing agency shall determine the frequency of exams administered, and shall determine the time and place for the examinations.
- (6) (a) Applicants who fail the state Board examination shall be entitled to retake the next regular scheduled examination upon written request and payment of an additional fee as set annually by the Board, pursuant to T.C.A. § 63-3-112. Such request and additional fee must be received in the Board's administrative office at least sixty (60) days prior to the examination.

1155-2-.08, Examinations, is amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraphs accordingly:

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, 63-3-111, 63-3-112, and 63-3-114.

Rule 1155-3-.01, X-Ray Operators, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) Scope of Practice
 - (a) Only those individuals that are qualified by training and experience may obtain a certificate to practice as x-ray operators in a podiatrist's office and must do so under the supervision of a duly licensed podiatrist.
 - (b) Each person certified by the Board must practice only in the "foot/ankle" specialty area. Practicing radiography beyond the scope of certification is grounds for decertification.
 - (c) Board issued certificates shall be posted in a location visible to all patients receiving radiographic examinations.
 - (d) Certificates issued by the Board are subject to being disciplined for the same causes, to the same extent and pursuant to the same procedures as issued podiatry licenses.
 - (e) Under no circumstances may a person certified pursuant to this chapter perform any procedure utilizing contrast media or any invasive radiological procedure.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-125.

Rule 1155-3-.03, Education And Training, is amended by adding the following language as new paragraph (4):

- (4) Application review, approval, denial, and interview decisions shall be governed by Rule 1155-2-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-125.

Rule 1155-3-.04, Examinations for Certification, is amended by adding the following language as new paragraph (5):

- (5) Application review, approval, denial, and interview decisions shall be governed by Rule 1155-2-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-125.

Rule 1155-3-.05, Grandfather, is amended by adding the following language as new paragraph (4):

- (4) Application review, approval, denial, and interview decisions shall be governed by Rule 1155-2-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-125.

Rule 1155-3-.06, Reciprocity, is amended by adding the following language as new paragraph (2):

- (2) Application review, approval, denial, and interview decisions shall be governed by Rule 1155-2-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-125.

Rule 1155-3-.07, Renewal, is amended by adding the following language as new paragraph (4):

- (4) Application review, approval, denial, and interview decisions shall be governed by Rule 1155-2-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-125.

Rule 1155-3-.08, Continuing Education, is amended by adding the following language as new paragraph (5):

- (5) Violations
 - (a) Any person who falsely attests to attendance and completion of the required hours of continuing education may be subject to decertification.
 - (b) Any person who fails to obtain the required continuing education hours may be subject to decertification.
 - (c) Education hours obtained as a result of compliance with the terms of a Board order in any disciplinary action shall not be counted toward the continuing education hours required to be obtained by paragraph (1) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-125.

Rule 1155-3-.09, Disciplinary Action, is amended by deleting its only sentence in its entirety and substituting instead the following sentence, so that as amended, the new Rule 1155-3-.09 shall read:

1155-3-.09 DISCIPLINARY ACTION. Any violation of this chapter could result in disciplinary action against the x-ray operator and the supervising podiatrist, pursuant to Rule 1155-2-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-125.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-27)

BOARD OF RESPIRATORY CARE - 1330

There will be a hearing before the Tennessee Board of Respiratory Care to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 1st day of August, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

Chapter 1330-1, General Rules Governing Respiratory Care Practitioners, is amended by deleting the words “respiratory technician” or “technician” and the words “respiratory therapist” or “therapist” wherever they may be found and substituting instead the words “certified respiratory therapist” and the words “registered respiratory therapist.”

Authority: T.C.A. §§4-5-202, 4-5-204, 63-27-102, 63-27-104, and Public Chapter 621 of the Public Acts of 2000.

Paragraph (9) of Rule 1330-1-.01, Definitions, is amended by substituting the word “Therapist” for the words “Therapy Technician.”

Authority: T.C.A. §§4-5-202, 4-5-204, 63-27-102, 63-27-104, and Public Chapter 621 of the Public Acts of 2000.

Rule 1330-1-.05, Qualifications and Procedures for Licensure, is amended by deleting the second sentence of subparagraph (1) (b).

Authority: T.C.A. §§4-5-202, 4-5-204, and 63-27-104.

Rule 1330-1-.07, Application Review, Approval, and Denial, is amended by adding the following language as new paragraph (7):

- (7) The issuance or renewal of licensure to applicants who otherwise may be entitled to full licensure or renewal, may be withheld, denied, conditioned or restricted in any manner the Board deems necessary to protect the public in any of the following circumstances:
- (a) When an applicant has had licensure disciplinary action taken or is under investigation by another state or territory of the United States for any acts or omissions which would constitute grounds for discipline of a license issued in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action or investigation from the disciplining state or territory shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a license issued in this state.
 - (b) When any applicant's application indicates a problem in the areas of mental, physical, moral or educational criteria for licensure or renewal which the Board determines may create a potential threat to the public health, safety or welfare.
 - (c) When any applicant has violated any provision of T.C.A. §63-27-112 or rules promulgated pursuant thereto.
 - (d) When any applicant fails to fully and timely comply with all licensure application and renewal requirements.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-27-104, 63-27-105, 63-27-109, 63-27-112, 63-27-116, and Public Chapter 621 of the Public Acts of 2000.

Rule 1330-1-.09, Renewal of License, is amended by deleting part (1) (c) (3) and subparagraph (2) (d) in their entirety and substituting instead the following language, so that as amended, the new part (1) (c) (3) and the new subparagraph (2) (d) shall read:

- (1) (c) 3. Upon request, submit verification of completion of continuing education requirements as provided in rule 1330-1-.12.
- (2) (d) Providing verification of completion of continuing education requirements, as provided in rule 1330-1-.12, for every calendar year for which the license had been administratively revoked.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-27-104, 63-27-105, 63-27-109, 63-27-116, and Public Chapter 621 of the Public Acts of 2000.

Rule 1330-1-.11, Retirement and Reactivation of License, is amended by deleting subparagraph (3) (d) in its entirety, and substituting instead the following language, so that as amended, the new subparagraph (3) (d) shall read:

- (3)(d) Providing verification of completion of continuing education requirements, as provided in rule 1330-1-.12, for every calendar year for which the license had been retired.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-27-104, 63-27-109, and Public Chapter 621 of the Public Acts of 2000.*

Rule 1330-1-.12, Continuing Education, is amended by deleting paragraph (1), subparagraph (4) (a), part (7) (a) 2., and subparagraph (7) (b) in their entirety, and substituting instead the following language, so that as amended, the new paragraph (1), subparagraph (4) (a), part (7) (a) 2., and subparagraph (7) (b) shall read:

- (1) Hours required.
- (a) Each therapist and assistant licensed by the Board must complete ten (10) contact hours of continuing education every calendar year. All courses must be at least thirty (30) minutes in length. Appropriate educational content may include the clinical practice of respiratory care, education, management, or research relating to the cardio-pulmonary system.
- (b) For new licensees, submitting proof of successful completion of the respiratory care program required by *T.C.A. §§63-27-106 or 63-27-107* shall be considered proof of sufficient preparatory education to constitute continuing education contact hour requirements for the calendar year in which the program was completed.
- (4)(a) Each individual must retain independent proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of three (3) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process. Such documentation must be one (1) or more of the following:
1. Certificates verifying the individual's attendance.
 2. Official transcript verifying credit hours earned.
 3. Written documentation of training that is kept by the respiratory care practitioner's employer. When submitting evidence of continuing education, the documentation must include employer's name, address and phone number along with the individual's name as registered with the board, license number and social security number, course name and clock hours of attendance. The respiratory care practitioner must sign the form as well as his supervisor or employer certifying that the program was monitored and the respiratory care practitioner was in attendance at all of the sessions listed.
- (7) (a) 2. Any individual requesting reactivation of a license which has been retired for one or more years must submit, along with the reactivation request, verification which indicates the attendance and completion of ten (10) contact hours of continuing education for every calendar year for which the license has been retired, although under no circumstances shall the maximum number of contact hours required be more than forty (40) hours. The continuing education hours must have been obtained during the period of retirement with the exception of the most recent calendar year requirement, which must have been completed within the twelve (12) months preceding reactivation.
- (7) (b) Reactivation of Revoked License – Any individual requesting reactivation of a license which has been revoked for non-compliance with the requirements of this rule must submit, along with the reactivation request, verification which indicates the attendance and completion of ten (10) contact hours of continuing education for every calendar year for which the license has been revoked. The continuing education hours

must have been obtained during the period of revocation with the exception of the most recent calendar year requirement, which must have been completed within the twelve (12) months preceding reactivation.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-27-104, 63-27-105, 63-27-106, 63-27-107, 63-27-109, 63-27-116, and Public Chapter 621 of the Public Acts of 2000.

Rule 1330-1-.19, Board Officer, Consultants, Records and Declaratory Orders, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraphs (5) and (6), so that as amended, the new catchline and the new paragraphs (5) and (6) shall read:

1330-1-.19, BOARD OFFICER, CONSULTANTS, RECORDS, DECLARATORY ORDERS, ADVISORY RULINGS, AND SUBPOENAS.

- (5) Advisory Rulings - Any person who is affected by any matter within the jurisdiction of the Board and who holds a license issued pursuant to Chapter 27 of Title 63 of the Tennessee Code Annotated, may submit a written request for an advisory ruling subject to the limitations imposed by T.C.A. § 63-27-104 (b). The procedures for obtaining and issuance of advisory rulings are as follows:
 - (a) The licensee shall submit the request to the Board Administrative Office on the form contained in subparagraph (5)(e) providing all the necessary information; and
 - (b) The request, upon receipt, shall be referred to the Board’s administrative staff for research, review and submission of a proposed ruling to the Board for its consideration at the next meeting after the draft ruling has been approved by the Board’s consultant and advisory attorney; and
 - (c) The Board shall review the proposed ruling and either make whatever revisions or substitutions it deems necessary for issuance or refer it back to the administrative staff for further research and drafting recommended by the Board; and
 - (d) Upon adoption by the Board the ruling shall be transmitted to the requesting licensee. The ruling shall have only such affect as is set forth in T.C.A. § 63-27-104 (b).
 - (e) Any request for an advisory ruling shall be made on the following form, a copy of which may be obtained from the Board’s Administrative Office:

Board of Respiratory Care
Request for Advisory Ruling

Date: _____

Licensee’s Name: _____

Licensee’s Address: _____

License Number: _____

1. The specific question or issue for which the ruling is requested:

2. The facts that gave rise to the specific question or issue:

3. The specific statutes and/or rules which are applicable to the question or issue:

Licensee's Signature _____

Mail or Deliver to: Unit Director
Tennessee Board of Respiratory Care
First Floor, Cordell Hull Building
425 5th Avenue North
Nashville, Tennessee 37247-1010

(6) Subpoenas

(a) Purpose - Although this rule applies to persons and entities other than respiratory care practitioners, it is the Board's intent as to respiratory care practitioners that they be free to comprehensively treat and document treatment of their patients without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Board that the subpoena power outlined herein shall be strictly proscribed. Such power shall not be used by the division or board investigators to seek other incriminating evidence against respiratory care practitioners when the division or board does not have a complaint or basis to pursue such an investigation. Thus, unless the division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, then no subpoena as contemplated herein shall issue.

(b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:

1. Probable Cause

(i). For Investigative Subpoenas - shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, exists that a violation of the Respiratory Care Practitioner Act or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or items to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.

(ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or items that are the subject of the subpoena.

2. Presiding Officer - For investigative subpoenas shall mean the board chair.

(c) Procedures

1. Investigative Subpoenas

- (i) Investigative Subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators and its legal staff.
- (ii) An applicant for such a subpoena must either orally or in writing notify the Board's Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:
 - (I) The time frame in which issuance is required so the matter can be timely scheduled; and
 - (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the division or board, although in no event shall such subpoena be broadly drafted to provide investigative access to medical records of other patients who are not referenced in a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or board consideration of a respiratory care practitioner's conduct, act, or omission; and
 - (III) Whether the proceedings for the issuance is to be conducted by physical appearance or electronic means; and
 - (IV) The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed.
- (iii) The Board's Unit Director shall cause to have the following done:
 - (I) In as timely a manner as possible arrange for the board chair to preside and determine if the subpoena should be issued; and
 - (II) Establish a date, time and place for the proceedings to be conducted and notify the applicant and the court reporter; and
 - (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:
 - I. Preserve a verbatim record of the proceeding; and
 - II. Prevent the presiding officer from being allowed to participate in any manner in any disciplinary action of any kind formal or informal which may result which involves either the person or the documents or records for which the subpoena was issued.
- (iv) The Proceedings
 - (I) The applicant shall do the following:
 - I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and

- II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
 - III. Obtain, complete and provide to the presiding officer a subpoena which specifies the following:
 - A. The name and address of the person for whom the subpoena is being sought or who has possession of the, items being subpoenaed; and
 - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought if that location is known; and
 - C. A brief, particular description of any materials, documents or items to be produced pursuant to the subpoena; and
 - D. The date, time and place for compliance with the subpoena.
 - IV. Provide the presiding officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.
- (II) The Presiding Officer shall do the following:
- I. Commence the proceedings and swear all necessary witnesses; and
 - II. Hear and maintain the confidentiality, if any, of the evidence presented at the proceedings; and
 - III. Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and
 - IV. Determine based solely on the evidence presented in the proceedings whether probable cause exists and if so, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry; and
 - V. Sign the subpoena as ordered to be issued; and
 - VI. Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for issuance of subpoenas in the matter.
2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case being heard with an Administrative Law Judge from the Secretary of State's office presiding, this definition shall not apply and all such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.

(d) Subpoena Forms

1. All subpoena shall be issued on forms approved by the board chair.
 2. The subpoena forms may be obtained by contacting the Board's Administrative Office.
- (e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-27-104, 63-27-112, and Public Chapter 621 of the Public Acts of 2000.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-28)

BOARD OF VETERINARY MEDICAL EXAMINERS - 1730

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of amendments to rules pursuant to *T.C.A. §§ 4-5-202, 4-5-204, 63-12-106, and 63-12-135*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 19th day of July, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Division's ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1730-1-.04, Qualifications for Licensure, is amended by deleting subparagraph (1) (b) in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (1) (c) in its entirety and renumbering the remaining subparagraph accordingly, so that as amended, the new subparagraph (1) (b) shall read:

- (1) (b) Pass the examination as provided in paragraph (1) of Rule 1730-1-.08.

Rule 1730-1-.04, Qualifications for Licensure, is amended by deleting subparagraph (2) (c) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (c) shall read:

- (2) (c) Pass the examination as provided in paragraph (1) of Rule 1730-1-.08.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106 63-12-107, 63-12-112, 63-12-114, 63-12-115, 63-12-116, and 63-12-117.

Rule 1730-1-.05, Procedures for Licensure, is amended by deleting subparagraphs (2) (c) and (2) (f) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (c) and (2) (f) shall read:

- (2) (c) An applicant shall pay, at the time of application, the non-refundable application, reciprocity, and State Regulatory fees as provided in Rule 1730-1-.06.
- (2) (f) An applicant shall pass the examination as provided in paragraph (1) of Rule 1730-1-.08.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106 63-12-107, 63-12-112, 63-12-114, 63-12-115, 63-12-116, and 63-12-117.

Rule 1730-1-.06, Fees, is amended by deleting parts (1) (c) 1. through (1) (c) 6. in their entirety and renumbering the remaining parts accordingly, and is further amended by changing the application fee in subparagraph (3) (a) from “\$ 25.00” to “\$ 125.00”, and is further amended by deleting parts (3) (c) 1. through (3) (c) 6. in their entirety and renumbering the remaining parts accordingly.

Authority: T.C.A. §§4-32-1011, 4-5-202, 4-5-204, 63-12-106 63-12-107, 63-12-112, 63-12-114, 63-12-115, 63-12-116, and 63-12-117.

Rule 1730-1-.07, Application Review, Approval, Denial, Interviews, is amended by adding the following language as new paragraph (11):

- (11) Applicants, who by virtue of any criteria for licensure in the areas of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates derogatory information or a potential risk to the public health, safety and welfare, may be required to present themselves to the Board, a Board member, or the

Board Designee for an interview before final licensure may be granted. The interviews, which may be required, are considered part of the licensure process.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-142, 63-12-63-12-106, 63-12-107, 63-12-112, 63-12-114, 63-12-115, 63-12-116, and 63-12-117.

Rule 1730-1-.08, Examinations, is amended by deleting the introductory sentence and paragraphs (1) through (5) in their entirety and substituting instead the following language, and is further amended by renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (1) through (6) shall read:

- (1) An individual seeking licensure shall be required to pass the examination as stated in paragraph (2), or pass the examinations as stated in paragraphs (3), (4), and (5).
- (2) North American Veterinary Licensing Examination
 - (a) This examination is developed by the National Board of Medical Examiners and is taken at Sylvan Prometric Learning Centers.
 - (b) Passing will be the criterion-referenced passing grade established by the National Board Examination Committee.
 - (c) The Board adopts the North American Veterinary Licensing Examination as its state and national examinations, pursuant to T.C.A. § 63-12-115.
- (3) National Board Examination
 - (a) The examination shall be the National Board Examination for Veterinary Medical Licensing ~ NBE I developed by Professional Examination Service under the direction of the National Board Examination Committee.
 - (b) Passing will be the criterion-referenced passing grade established by the National Board Examination Committee.
- (4) Clinical Competency Test
 - (a) The Clinical Competency Test shall be the Clinical Competency Test (CCT) developed by Professional Examination Service under the direction of the National Board Exam Committee.
 - (b) Passing will be the criterion-referenced passing grade established by the National Board Examination Committee.
- (5) Jurisprudence Examination
 - (a) The jurisprudence examination shall be administered by, and at the convenience of, the Board.
 - (b) The jurisprudence examination shall be developed by the Board's Unit Director.
 - (c) The passing grade will be seventy percent (70%) on the jurisprudence examination.

- (6) Applicants for licensure who have a National Board Examination score and/or a Clinical Competency Test scores, that is more than five (5) years old, must pass the examination in paragraph (2) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-112, 63-12-114, 63-12-115, 63-12-116, and 63-12-117.

Rule 1730-3-.04, Qualifications for Licensure, is amended by deleting subparagraphs (1) (b), (1) (c) and (2) (c) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (b) and (2) (c) shall read:

- (1) (b) Pass the examination as provided in paragraph (1) of Rule 1730-3-.08.
- (2) (c) Pass the examination as provided in paragraph (1) of Rule 1730-3-.08.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-107, 63-12-112, 63-12-114, 63-12-115, 63-12-116, 63-12-117, and 63-12-135.

Rule 1730-3-.05, Procedures for Licensure, is amended by deleting subparagraphs (1) (f), (2) (c) and (2) (f) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (f), (2) (c) and (2) (f) shall read:

- (1) (f) An applicant shall pass the examination as provided in paragraph (1) of Rule 1730-3-.08.
- (2) (c) An applicant shall pay, at the time of application, the non-refundable application, reciprocity, examination, and State Regulatory fees as provided in Rule 1730-3-.06.
- (2) (f) An applicant shall pass the examination as provided in paragraph (1) of Rule 1730-3-.08.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-107, 63-12-112, 63-12-114, 63-12-115, 63-12-116, 63-12-117, and 63-12-135.

Rule 1730-3-.06, Fees, is amended by deleting subparagraphs (1) (c), (3) (a) and (3) (c) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (c), (3) (a) and (3) (c) shall read:

- (1) (c) Examination - A non-refundable fee to be paid to the Board to take the Veterinary Technician National Examination.
- (3) (a) Application \$ 75.00
- (3) (c) Examination 100.00

Authority: T.C.A. §§4-32-1011, 4-5-202, 4-5-204, 63-12-106, 63-12-107, 63-12-112, 63-12-114, 63-12-115, 63-12-116, 63-12-117, and 63-12-135.

Rule 1730-3-.07, Application Review, Approval, Denial, Interviews, is amended by adding the following language as new paragraph (11):

- (11) Applicants, who by virtue of any criteria for licensure in the areas of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates derogatory information or a potential risk to the public health, safety and welfare, may be required to present themselves to the Board, a Board member, or the Board Designee for an interview before final licensure may be granted. The interviews, which may be required, are considered part of the licensure process.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-142, 63-12-63-12-106, 63-12-107, 63-12-112, 63-12-114, 63-12-115, 63-12-116, 63-12-117, and 63-12-135.

Rule 1730-3-.08, Examinations, is amended by deleting the introductory sentence and paragraphs (1) through (3) in their entirety and substituting instead the following language, and is further amended by renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (1) through (3) shall read:

- (1) An individual seeking licensure shall be required to pass the examination as stated in paragraph (2).
- (2) Veterinary Technician National Board Examination
 - (a) This examination is developed by Professional Examination Service under the direction of the Veterinary Technician Testing Committee.
 - (b) Passing will be the criterion-referenced passing grade established by the testing agency.
 - (c) The Board adopts the Veterinary Technician National Board Examination as its state and national examinations, pursuant to T.C.A. § 63-12-115.
- (3) The application for and the fees required to sit for the Veterinary Technician National Board Examination must be submitted to the Board's administrative office at least forty-five (45) days prior to the examination date.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-112, 63-12-114, 63-12-115, 63-12-116, 63-12-117, and 63-12-135. My commission expires on the 26th day of May, 2002.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2000. (05-42)



CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning May 1, 2000 and ending May 31, 2000.


RILEY C. DARNELL
Secretary of State

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